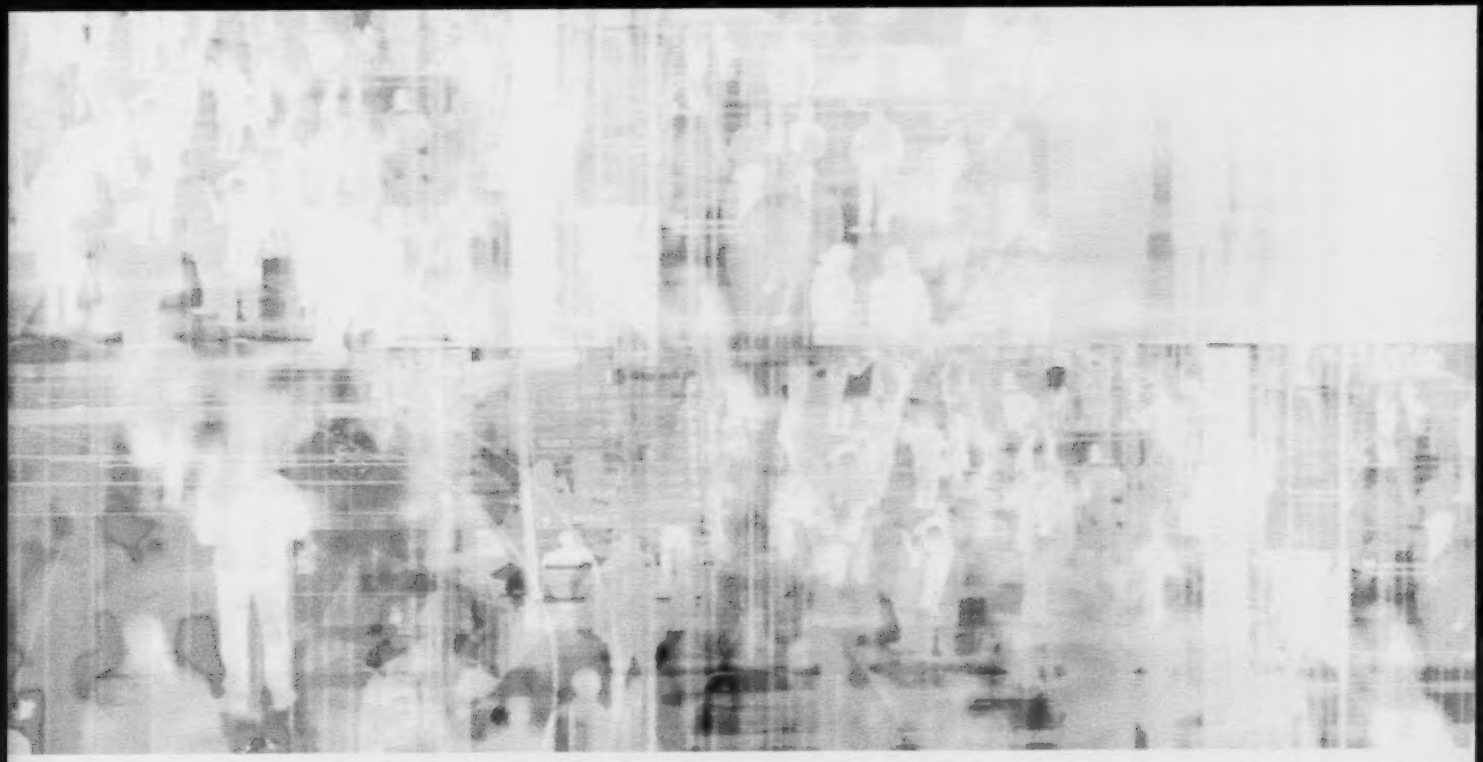
Ombudsman
ONTARIO

ONTARIO'S WATCHDOG

ANNUAL REPORT

2009-2010



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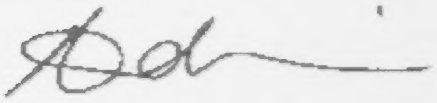
June 15, 2010

The Honourable Steve Peters
Speaker
Legislative Assembly
Province of Ontario
Queen's Park

Dear Mr. Speaker,

I am pleased to submit my Annual Report for the period of April 1, 2009 to March 31, 2010, pursuant to section 11 of the *Ombudsman Act*, so that you may table it before the Legislative Assembly.

Yours truly,



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Ombudsman's Message:
A strong foundation for better governance

PHOTO BY BRIAN WILLER

As Ontarians brace for a new round of belt-tightening initiatives targeted at deficit elimination, the Ombudsman's role becomes all the more critical. The public, the Legislative Assembly and government administrators need to have confidence that there is an impartial, fair and unbiased overseer available to listen to all sides, investigate thoroughly, and provide balanced advice and guidance. The Ombudsman can serve as a bulwark of democracy in troubled times, protecting citizens and helping government to improve in the face of a tough economy and fiscal constraint.

In fact, ombudsmen have been resolving citizen complaints and fostering good governance for hundreds of years. In 2009, the ombudsman world celebrated the **200th anniversary** of the first modern parliamentary ombudsman – created in Sweden in 1809. Across Canada, ombudsmen celebrated this occasion with special activities. In Ontario, the Legislative Assembly recognized the week of October 12-16, 2009 as "**Good Governance Week**" and representatives from all political parties spoke about the importance of the Ombudsman role and the significant contributions that our Office has made to government accountability.

The year 2010 also marks the **35th anniversary** of the Ombudsman's Office in this province. This landmark serves as a reminder of how far the Office has come since April 1, 2005, when I began my term as Ombudsman. It was my vision upon assuming office to return the Ombudsman institution in Ontario to its Swedish parliamentary roots – focusing on fighting administrative injustice and shaping good, sound public policy.

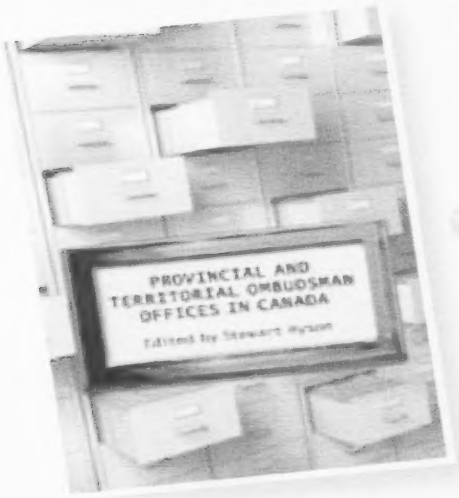
Over time, the Ombudsman in Ontario had gradually drifted away from its original purpose as an advocate for the public interest in good governance. Instead of addressing the underlying causes of government maladministration, the Office had begun to concentrate its resources on resolving individual grievances through a complex maze of procedures. While the Office had always enjoyed a good reputation as a place to turn to resolve administrative misdemeanors – such as complaints about delayed birth certificates or rude treatment by the bureaucracy – it was losing broad public relevance and risked becoming obsolete. Proof of this arrived on my first day on the job, when I learned that the Deputy Ministers' Council had recommended that the Office be eliminated as a cost-cutting measure.

Fortunately, that recommendation was never endorsed by the government, but it galvanized our Office to change. Under the spectre of annihilation and without any new resources, we embarked on an ambitious plan to tackle difficult, controversial problems in Ontario public services head-on, through systemic investigations. In 2005, we restructured our operations to allow us to take on major investigations potentially affecting millions of people – while still resolving thousands of individual complaints. In the years since, we have monitored developments in every one of our two dozen systemic investigations, accepted new responsibilities – becoming the investigator for complaints about closed meetings in municipalities across the province in 2008 – and worked proactively with government organizations to solve recurring problems. We did all this, I should note, under budget.

Five years of progress

This Annual Report is a testament to our progress in reinvigorating the institution of the Ombudsman in this province. I believe that the best measure of the worth of an Ombudsman's Office lies not in flow charts or statistical charts but in its accomplishments. In our case, the first indicator of success is that our Office is thriving five years after the Deputy Ministers' Council foresaw its doom. We have demonstrated our value through the results of our investigations: In virtually every case, our recommendations have been accepted and implemented, resulting in substantial policy and program changes that have benefited Ontarians in all walks of life.

I have said it many times, but it bears repeating: The Ombudsman has **no** authority to require the government to take any particular action. The Ombudsman's only power to effect change is moral suasion. However, even in the most contentious cases, where the stakes are the highest, **government has not only accepted our recommendations, but gone on to praise and champion them**. This is a powerful measure of our Office's performance. For example, at the Ontario Lottery and Gaming Corporation (OLG), the regulatory system for oversight of retailers was overhauled, greater consumer protections were put in place, and more than half of the agency's senior management was replaced in response to our investigation. In the case of the Municipal Property Assessment Corporation (MPAC), property assessments were frozen for two years to allow for improvements to be made. And after our investigation of Ontario's deficient newborn screening practices, a state-of the-art testing facility was established, enabling the province to proclaim that its screening regime had gone from "**the worst to the first**."



Our Office's new approach has become a model for other jurisdictions in Canada and abroad. At the request of the Canadian Council of Parliamentary Ombudsman and the International Ombudsman Institute, we created a course for administrative investigators, known as **Sharpening Your Teeth**, that has been attended by hundreds of officials from all over the globe; from Canadian agencies to agencies of the United Nations. Our work has also attracted the attention and praise of scholars.

> "Though it could be argued that Ontario has often been a laggard in the field of ombudsmanship in Canada, it is now in many ways a beacon for the rest of the country... Marin has brought a pro-active style to the office that has reinvigorated the Ombudsman idea in Ontario – a style that has set a standard for the rest of the country."
>
> – *Provincial and Territorial Ombudsman Offices in Canada*, 2009, University of Toronto Press (ed. Stewart Hyson)

In his 2009 book, *Provincial and Territorial Ombudsman Offices in Canada*, Professor Stewart Hyson concludes that our style has "**reinvigorated the Ombudsman idea in Ontario**" and "**set a standard for the rest of the country**." The renowned public administration expert, Professor Gilles Paquet, has also praised our Office for modernizing the traditional ombudsman role – adding us to his list of "social architects" who "**scheme virtuously**" to ensure repair of flawed organizations and institutions. (I invited Prof. Paquet, whom I met for the first time in 2009 at a Canadian ombudsman conference in Montreal, to elaborate on his unique and inspiring vision at a recent "Sharpening Your Teeth" session and in this year's report. His contribution appears after this Message.)

Truth in advertising – the numbers and the human story

This year's report illustrates how we have built on our reinforced foundation. It details our continued achievements in our systemic investigations, our individual case resolutions and our proactive work with ministries and agencies. It also includes statistical charts that show the volume of complaints and inquiries we dealt with – **12,444** this year – and provide various breakdowns according to where these complaints came from and how they were dispatched.

But there is a story behind the story told in those charts and figures, and it is another chapter in our ongoing work toward reform and transparency: Over the past few years, we have continuously refined our complaints management system to track public concerns as accurately as possible. All public calls are triaged, so the most urgent matters are dealt with immediately, and complex complaints are distinguished from, for example, expressions of opinion, requests for information or other basic inquiries. This allows us to identify systemic issues at the earliest opportunity, and it also provides for more accurate statistics than simply reporting bulk numbers of calls. For instance, when a number of inmates at a correctional facility complain to us about the same problem, or submit a petition, this is now counted as one group complaint, as opposed to several dozen individual complaints.

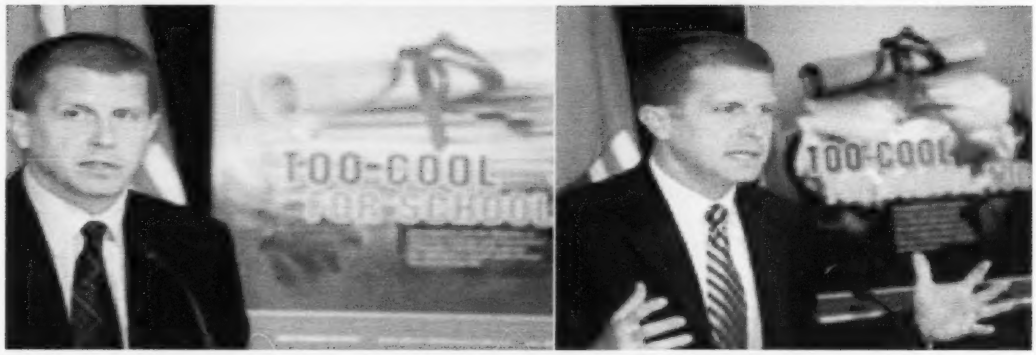
Our close monitoring of past investigations and related complaint trends also allows us to gauge the impact of those investigations, another story we see behind the numbers. One dramatic example is our investigation and report on **MPAC** in 2006. We received almost **4,000** complaints about MPAC alone in relation to that investigation, but the reforms implemented by the government in response to our recommendations have resulted in a substantial and progressive decline in complaints in subsequent years – to just **178** in 2009-2010.

Ultimately, the story told in this report is a human one. The stories throughout this report emphasize how our work – individual cases, systemic investigations and proactive efforts – has helped people. Another measure of that performance lies in the wide range of supportive comments included in the **Feedback** section.

Training in a tough economy

In the wake of the severe economic downturn that left thousands of Ontarians looking for work and retraining, a number of systemic problems and serious complaints involving the Ministry of Training, Colleges and Universities (MTCU) came to our attention in 2009-2010. Two of these were assigned to our **Special Ombudsman Response Team**, or **SORT** (details follow in the SORT section of this report). After our report *Too Cool for School* revealed its lax approach towards illegal private career college operators, the Ministry accepted our criticism and committed to redirecting its efforts to becoming an effective regulator. In December 2009, the Ministry began to levy fines against illegal operators for the first time. And in April 2010, the Minister introduced legislation increasing the maximum available penalties for violations of the *Private Career Colleges Act*. After the release of our "sequel" report *Too Cool for School Too* – in which we outlined the plight of Cambrian College graduates who complained they were misled by the college's promotional material – the same Ministry issued a binding policy directive to all public colleges of applied arts and technology, aimed at ensuring that advertising and promotion of college programs is accurate.

We also helped several students and would-be students with their individual battles with the bureaucracy, enabling them to get on with retraining and careers. These cases, among others, are detailed in the **Case Summaries** section of this report. We received several complaints about MTCU's Second Career and Ontario Skills Development programs as well as the Ontario Student Assistance Program (OSAP). In one case, we helped speed up a mother's application for funding – so it arrived on the day she was to start college. In another, the Ministry acknowledged it had wrongly cut a student's living allowance in half after the college she was attending closed and she was forced to attend another one. We also convinced



Ontario Ombudsman André Marin releases his report on private career colleges, Too Cool for School, *in July 2009 (left) and his report on Cambrian College,* Too Cool for School Too, *in August 2009.*

the Ministry to pay more than $2,000 in tuition reimbursements that it wrongly denied to an unemployed apprentice worker, and to scrap an antiquated OSAP policy that discriminated against hairstyling students. In dealing with complaints against colleges, we persuaded one to reimburse a part-time student who had been improperly charged a full-time rate.

A healthy dose of oversight

As all governments have acknowledged in recent years, health care and its ever-ballooning costs are the administrative challenge of our time. As public officials balance budget pressures with the needs of vulnerable patients, the Ombudsman can play a very important role – both by investigating the complaints of the people and by assisting government to make sure that when it makes tough decisions, they are still fair, compassionate and reasonable.

We dealt with several difficult issues involving the administration of health-care programs and funding in 2009-2010. Through our urging – after an investigation by SORT – the Ministry of Health and Long-Term Care ended nearly eight years of study and indecision over Positron Emission Tomography (familiarly known as PET scans) and announced it would cover PET for certain cancer and cardiac indications through the Ontario Health Insurance Plan (OHIP).

The Ministry also revisited significant drug funding decisions as a result of our investigations. Our report, *A Vast Injustice*, documented how the Ministry had arbitrarily cut off funding for Avastin, a drug used to treat metastatic colorectal cancer, without consideration of patient outcomes. We explained that it was wrong and against all recommended medical practice to cut patients off at 16 cycles of treatment when they were still doing well on Avastin – and to the desperate patients' great relief, the government agreed to lift the cap in December 2009. It now covers treatment to 24 cycles and beyond, if recommended by a physician.

In another case, the Ministry revised its Exceptional Access Program reimbursement criteria for pulmonary arterial hypertension therapy using the drug Flolan, to allow funding to be considered in certain cases where the therapy is used in combination with other treatment. This matter was resolved informally by SORT investigators in consultation with the Ministry.

These cases were complemented by those where we assisted individuals with health-related concerns. For example, we helped a mother and her six children get their OHIP coverage restored – just in time for baby No. 7 – when it was wrongly denied. In response to our alert, the Ministry also ensured that a pair of twins who were born in the U.S. because of a bed shortage in Ontario would still have OHIP coverage while their Canadian citizenship paperwork was finalized.

Proactive solutions – the untold story

Our systemic investigations and many of our case resolutions have helped the government fix recurring problems and thus avert future complaints. Our experience and constant monitoring have also allowed us to identify programs that are persistent or perennial sources of complaints, and to flag areas of concern before they fester and grow. This type of proactive work – involving regular, behind-the-scenes meetings with senior government officials – is the great untold story of our Office in the past five years. By warning senior bureaucrats about trends and clusters of complaints in problem areas as we receive them, we are able to find solutions faster and assist the government in improving its services – without, in most cases, resorting to a full-scale investigation.

We routinely receive high volumes of complaints about Ontario correctional facilities, the Family Responsibility Office (FRO) and the Ontario Disability Support Program (ODSP), to name the top three. We therefore meet with senior managers of all these programs on a regular basis. In the jails, we zero in on cases where the health and welfare of inmates is at issue, assisting those who are most in need of our help – while referring complaints back to the institutions for quick resolution where appropriate. We also helped inmates with record-keeping mistakes that kept them in jail longer than necessary – as detailed in two of our case summaries. Constant communication and co-operation with the Ministry of Community Safety and Correctional Services has also allowed us to address broad systemic service issues.

Complaints about the Family Responsibility Office come from all sides – we hear from hundreds of unhappy support recipients and payors alike. At our meetings with senior FRO officials, we have been able to address many problems with its practices and policies, resulting in more effective enforcement. In one case highlighted in the **Operations** section of this report, a woman who was owed $150,000 in support had seen no enforcement from FRO for years. Three months after we became involved in the case, her support payor had been made to pay

Ontario Ombudsman André Marin releases his report on Avastin funding, A Vast Injustice, *in September 2009.*

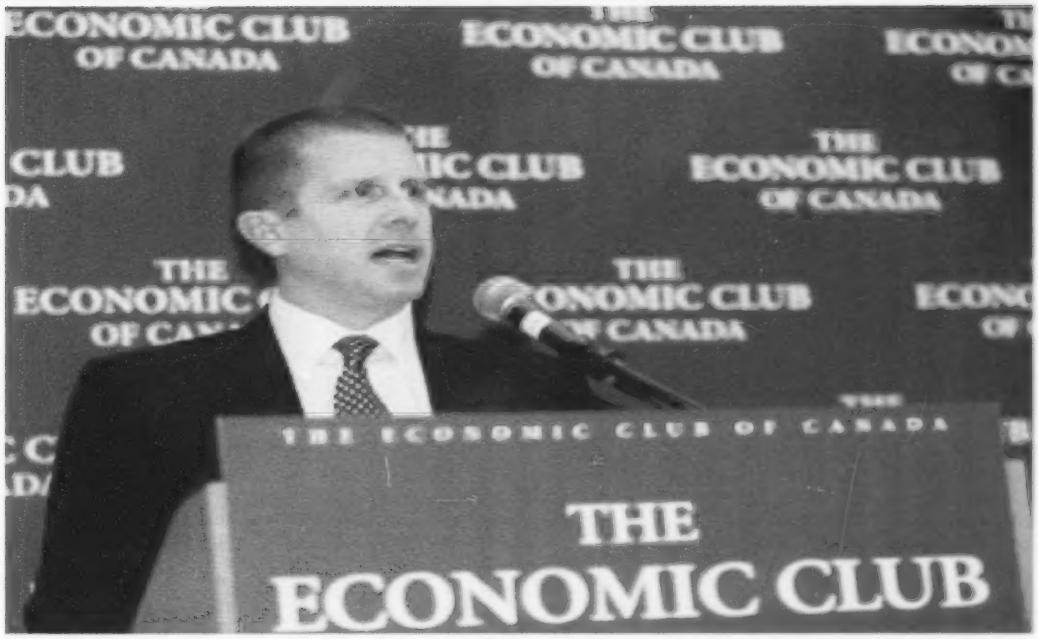
almost **$35,000**. We have also helped many people by identifying FRO's errors – such as one that prevented it from collecting more than $30,000 in support arrears – and spurring it to action (in one case, getting it to release $7,000 to a recipient that it had been holding unnecessarily).

Our regular meetings with ODSP administrators helped identify systemic problems, while our inquiries in individual cases helped some of Ontario's most vulnerable people obtain redress. We helped restore $1,700 to a disabled father whose benefits for home-schooling his disabled son were wrongly denied by the Ministry of Community and Social Services. We also helped an ODSP recipient who was facing imminent eviction and was unable to pay for transportation to visit her terminally ill mother in hospital.

Most of this work has been accomplished outside of the public spotlight, but our proactive work in one area did make news, and deservedly so – when we identified a disturbing increase in complaints reminiscent of our 2005 report, *Between a Rock and a Hard Place*. At that time, many parents of severely disabled children were facing the drastic prospect of having to turn them over to children's aid societies in order to get them the residential care they needed. This crisis had arisen as a result of the Ministry of Children and Youth Services' decision not to fund special-needs agreements outside of the child protection system. We began meeting regularly with Ministry officials last year when we received 24 complaints relating to inadequate services and treatment of children with special needs, and in 2009-2010, we received 39 more. **In every case**, by working closely with senior Ministry officials and related service providers, we have been able to ensure that these desperate parents got the attention they deserved and the help they needed. We will continue this important work to make sure no one has to surrender custody of a child because of a lack of services.

> "Our experience and constant monitoring have also allowed us to identify programs that are persistent or perennial sources of complaints, and to flag areas of concern before they fester and grow."

Ombudsman staff met with members of the public at several events, including this Government and Community Services Fair in Etobicoke in February 2010.



Ontario Ombudsman André Marin speaks to the Economic Club of Canada in October 2009.

Holding agencies accountable

Perhaps the most prominent public debate of 2009-2010 involved the oversight of Ontario's ABCs – the **Agencies, Boards and Commissions** that operate at arm's length from the government. Spending scandals and controversy over consultant contracts engulfed the Ontario Lottery and Gaming Corporation, the Workplace Safety and Insurance Board, Cancer Care Ontario and of course eHealth, prompting the government to institute new measures to bring greater accountability to this sector. In October 2009, in a speech I gave to the Economic Club of Canada, I discussed the rise of ABCs in Ontario and encouraged the government to look for creative ways to ensure this sector is not only accountable but truly reflects public service values.

> "ABCs are creatures of government. To keep them from overpowering and defeating the aims and obligations of the governments who create them, … ABCs should be as open as government, as accountable to the people as government, and as imbued with the same spirit of public service that government is meant to reflect."
>
> —Ombudsman André Marin, speech to Economic Club of Canada, Toronto, October 15, 2009

My Office has authority over hundreds of ABCs, and complaints about these bodies represent a large segment of our overall complaints. We continue to monitor developments with MPAC, the OLG and the Criminal Injuries Compensation Board in the wake of our earlier systemic investigations. This year, we helped a property owner get a hearing at the Assessment

Review Board after it forgot about her appeal for three years. And in addition to dealing with complaints about Legal Aid Ontario's decisions in granting aid certificates, we also helped two complainants whom the agency wrongly pursued for payment.

In a similar vein, we were able to help a host of other government ministries and agencies improve their customer service – often putting much-needed money back in the pockets of people who had become ensnared in red tape. We prompted the Ministry of Transportation to send out a forgotten reimbursement cheque for car damage caused by its construction work, and identified a computer system inadequacy in the same Ministry that undermined protection for used-car buyers. We helped several people in their battles with Hydro One, keeping the electricity turned on for a bedridden woman's oxygen machine, and identifying errors that led to one person being charged commercial rates for a residential property, and another being charged for power in two residences instead of one.

> "Like you, my colleagues and I believe in the crucial importance of safeguarding the public trust... I look forward to working with you to ensure the openness, transparency and accountability of government. Thank you for your public commentary on the accountability of our agencies."
>
> – Premier Dalton McGuinty, letter to Ombudsman, November 2, 2009

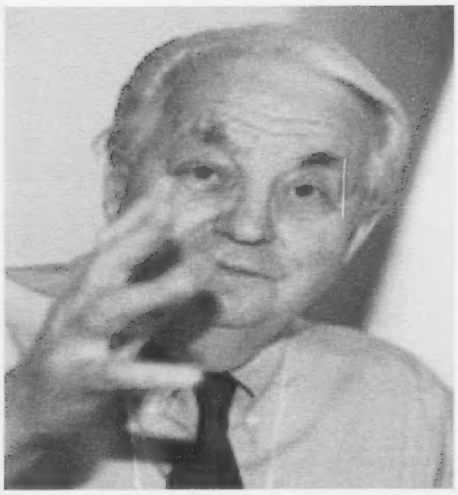
Impenetrable MUSH, but an effective OMLET

Unfortunately, a vast area of public services remains outside of our purview after five years of discussion – indeed, Ombudsmen of Ontario have lamented this gap in their jurisdiction since 1975. This is the so-called "**MUSH**" sector – **M**unicipalities, **U**niversities, **S**chool boards, **H**ospitals and long-term care facilities, as well as children's aid societies and police. Our Office is unable to investigate complaints about any of these institutions. As in previous years, we have documented the hundreds of MUSH sector complaints we received and were forced to turn away in 2009-2010 – this information follows in the next section of this report. We also continue to monitor developments in other provinces, all of which grant their Ombudsmen more oversight of these important areas than does Ontario. I remain hopeful that one day these crucial services, which account for such an enormous chunk of public spending, will one day be subject to the same scrutiny as all other aspects of the Ontario government.

We were, however, given the new responsibility of investigating complaints about closed meetings in municipalities in 2008, something we were able to assume without any increase in our resources. While our **Open Meeting Law Enforcement Team (OMLET)** conducts formal investigations in appropriate cases, we have had considerable success in resolving cases informally with municipalities, encouraging them to adopt best practices for their closed meetings. Our focus remains on educating municipal officials about their obligations to ensure their business is conducted openly and transparently.

As this Annual Report illustrates, the Office of the Ombudsman has reinforced its roots and resurged as a robust and energetic leader in the Ombudsman community. With the continued support of the public it represents, the government organizations it oversees and the Legislative Assembly to which it reports, it has established a strong foundation, built to serve Ontario's citizens well into the future. As I embark upon my second five-year term – an appointment I was honoured to receive through unanimous consent of the Legislative Assembly on June 1, 2010 – my staff and I look forward to doing just that.

Scheming Virtuously: The burden of office of the modern Ombudsman



BY GILLES PAQUET

New technologies have created new ways of doing things and new occupations. In the same way, new socio-political realities require agents like ombudsmen to be capable of performing new crucial functions.

In the new world of governance, where power, resources and information are distributed among many hands, nobody is fully in charge. Co-ordination and collaboration are essential, but not automatically ensured. The situation is fraught with possibilities of tension, friction, exactions and dysfunctions.

In the old world, where potentates could claim to be in charge, dysfunctions were handled by coercion. In today's world of governance, coercion does not work. This is why, in the recent past, so many ombudsman positions have been created in the private, social and public sectors all around the world: To meet the need for new agents capable of doing the required work of mediation, negotiation and reconciliation – acting as creative catalysts among the different players.

The mandates and job descriptions of ombudsmen vary widely, and their styles may be more or less aggressive, yet their burden of office is intriguingly similar: Fundamentally, they are all producers of governance. The specificities of their interventions depend on their milieu, the nature and scope of the dysfunction, and the courage of the office holder.

But their mission is always to meet three challenges:

1. To help partners – who have not chosen to work together but need to, in developing a vision; a clarified view of the world that they could not reach on their own;
2. To identify the anomalies and governance failures at the source of the misunderstandings and of the conflicts; and
3. To propose a new design for organizations and institutions, and new rules for their operations that will remove the source of the difficulties.

To avoid being crippled by a mesh of rules that would limit his interventions unduly, the scope of the ombudsman's office must remain strategically and deliberately vague. In the language of philosopher Isaiah Berlin, ombudsmen must be foxes, not hedgehogs. The hedgehog has only one big idea – rolling into a ball with all its spikes out as a way to face all difficult situations. Foxes have *many* ideas – they face different situations with different strategies in order to be effective. To be effective social architects and organization designers, the ombudsman must always be scheming virtuously – to improvise, adapt, overcome.

The ombudsman's burden of office is to help individuals as the Good Samaritan did, and to bring flawed policies to the attention of potentates as warranted. But it is much more. It also demands that, as anomalies are brought forth or uncovered, robust inquiries are made. Those inquiries must ensure that ways are discovered and suggested to better design organizations and institutions so that future mishaps can be avoided. And finally, appropriate public action must be taken to ensure that the flawed organizations and institutions are repaired.

– Gilles Paquet is Professor Emeritus at the Telfer School of Management at the University of Ottawa, a former president of the Royal Society of Canada, the recipient of three honourary doctorates, and the author and/or editor of more than 40 books on public management, industrial organization, economic history and governance. His website, www.gouvernance.ca, notes that he has a "special interest in administrative pathologies and subversion."

The Year in Review

Beyond scrutiny: MUSH sector update

The "MUSH sector" refers to a broad assortment of organizations that account for the majority of provincial spending: **M**unicipalities, **U**niversities, **S**chool boards and **H**ospitals – as well as long-term care homes, children's aid societies and police. All of these organizations remain outside the scrutiny of the Ontario Ombudsman's Office, whose oversight of this sector is the most limited in Canada. The chart below compares the mandates of all provincial ombudsmen with regard to the MUSH sector.

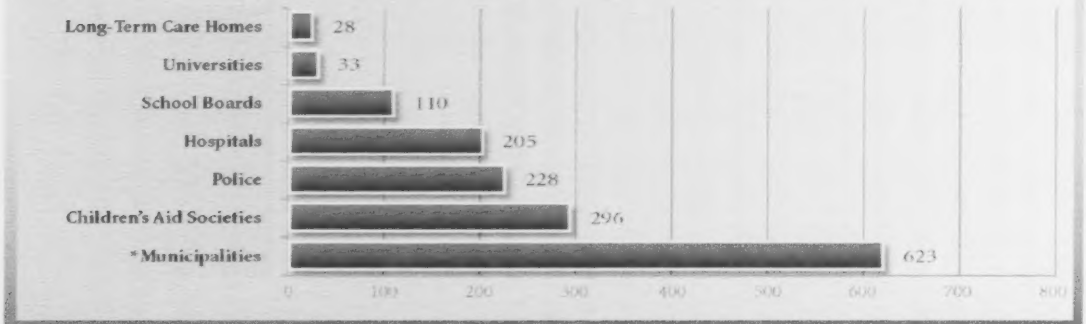
Ontario's various Ombudsmen have called for the Office's mandate to be expanded to include the MUSH sector since 1975. There has been widespread public discussion about this issue over the past five years, but hundreds of Ontarians continue to complain to our Office about MUSH organizations – many of them saying they feel they have nowhere else to turn. We received and were forced to turn away **1,523** such complaints and inquiries in 2009-2010. A breakdown and general description of these complaints, shown in the accompanying chart, follows.

LAGGING BEHIND

How Ontario's Ombudsman mandate compares to others in key areas of jurisdiction

	Boards of Education	Child Protection Services	Public Hospitals	Nursing Homes and Long-Term Care Facilities	Municipalities	Police Complaints Review Mechanism	Universities
Ontario	No	No	No	No	No	No	No
British Columbia	Yes	Yes	Yes	No	Yes	No	Yes
Alberta	No	Yes	Yes	Yes	No	Yes	No
Saskatchewan	No	Yes	Yes	No	No	Yes	No
Manitoba	No	Yes	Yes	No	Yes	Yes	No
Quebec	No	Yes	Yes	Yes	No	Yes	No
New Brunswick	Yes	Yes	Yes	No	Yes	Yes	No
Newfoundland and Labrador	Yes	Yes	Yes	Yes	No	Yes	Yes
Nova Scotia	Yes	Yes	Yes	Yes	Yes	Yes	No
Yukon	Yes	Yes	Yes	Yes	Yes	No	No

MUSH SECTOR CASES RECEIVED DURING FISCAL YEAR 2009-2010 — **TOTAL: 1,523**



*Excludes cases received about closed municipal meetings.

Municipalities

People from across Ontario complained to the Ombudsman about a wide range of municipal issues, including:

- problems with permits and licences;
- allegations of conflicts of interest involving municipal officials;
- inconsistent and inadequate by-law and building code enforcement;
- unfair evictions from public housing;
- errors and poor service in welfare administration;
- cutoff of utilities;
- poor sewer maintenance; and
- problems with public transit.

While the Ombudsman has been able to investigate complaints from some municipalities about improperly closed meetings since 2008 (detailed in the **Open Meeting Law Enforcement Team** section of this report), we received an additional **623** municipal complaints and inquiries in 2009-2010 that we were forced to turn away because they were outside of our jurisdiction. Most of those who complained had nowhere else to turn, since the City of Toronto is currently the only Ontario municipality that has its own ombudsman.

Universities

The Ombudsman has the authority to investigate Ontario's 24 colleges of applied arts and technology, but not universities. We received **33** complaints and inquiries about universities this year – most about policies and practices relating to discipline, record-keeping and course administration. The Canadian Federation of Students, which represents more than 300,000 post-secondary students in Ontario, resolved in March 2010 to support modernization of the Ombudsman's mandate to include universities.

School boards

We received **111** complaints and inquiries about school boards in 2009-2010. Most were from frustrated parents raising concerns about issues such as boards failing to accommodate children with special needs, unsafe school and transportation conditions, lack of resources, school violence, school closures and inappropriate suspensions and expulsions. These complaints could not be investigated, since school boards are outside of the Ombudsman's jurisdiction – except in the rare circumstance where the Ministry of Education assumes direct control of a board through the appointment of a supervisor. This was the case with the Toronto Catholic District School Board, about which our Office received **5** complaints and inquiries in 2009-2010, all of which were dealt with through referral and early resolution.

The Toronto District School Board also discussed creating its own ombudsman this past year. While the proposal did not move forward, it sparked some informal public debate about whether oversight of schools would be best handled by an internal ombudsman or by expanding the mandate of the provincial ombudsman.

Hospitals and long-term care homes

Hospitals and long-term care homes accounted for a total of **233** complaints and inquiries to our Office in 2009-2010 (**205** for hospitals; **28** for long-term care homes). They focused on issues ranging from complaints about poor communication by administrators to serious allegations of abuse and substandard care.

Ontario is the only province whose Ombudsman has no oversight of hospitals. The Ombudsman only has authority over hospitals and long-term care homes when the government takes control of a facility and appoints a supervisor. This past year, Quinte Healthcare Corporation and Cambridge Memorial Hospital came under government supervision, and we received a total of **26** complaints and inquiries about these facilities. Several were complaints about medical practitioners, whose conduct, like that of members of other self-regulating professions, is outside of the Ombudsman's purview. Other complaints were about general quality of care, delays in attention to patients, and administrative issues; these were quickly resolved through referral and early resolution.

Several MPPs have attempted to have the Ombudsman's mandate extended to cover hospitals and long-term care facilities through the passage of private members' bills. **Bill 89**, the *Ombudsman Amendment Act (Hospitals and Long-Term Care Facilities), 2008*, introduced by NDP MPP France Gélinas in June 2008, died on the order paper when the Legislative Assembly prorogued in March 2010. **Bill 102**, the *Seniors' Ombudsman Act, 2008*, introduced in September 2008 by Liberal MPP Mario Sergio, met a similar fate.

The call to allow the Ombudsman to investigate hospitals was also taken up by many municipalities. On May 28, 2009, the Town of Fort Erie petitioned the Premier to amend the *Ombudsman Act* to bring hospitals under the Ombudsman's jurisdiction, "to ensure a high level of health care, fiscal responsibility, accountability, openness and transparency." Eight other municipalities supported Fort Erie's petition. On February 2, 2010, the Town of Gravenhurst joined in making a similar petition to the Premier, which was later supported by an additional 15 municipalities.

While the Ontario Hospital Association has recently shown some appetite for oversight, proposing in October 2009 that the *Freedom of Information and Protection of Privacy Act* be broadened to apply to Ontario's 155 hospitals to bolster public trust and confidence, it has made no similar suggestion with respect to the *Ombudsman Act*.

As NDP Leader Andrea Horwath recently observed when commenting on revelations of surgical errors and pathology problems at a Windsor hospital, the province remains without an independent, effective oversight mechanism to deal with individual and systemic issues in the health care field.

> "Had there been Ombudsman oversight at that time, had the Ombudsman had the opportunity perhaps, we might have had recommendations that would have had a different outcome... Almost 50% of our budget is invested in the health care system and yet oversight, in terms of systemic issues that arise, isn't there."
>
> – NDP Leader Andrea Horwath, as quoted in "Ministry investigating surgical errors," *St. Catharines Standard*, February 26, 2010

Children's aid societies

The Ontario Association of Children's Aid Societies recently launched an awareness campaign to educate the public on the organization's role within the community, and ways for people to get involved in "your Children's Aid." Unfortunately, "your Children's Aid" remains beyond the Ombudsman's authority to investigate. As with hospitals, Ontario is the only province whose Ombudsman does not have oversight of child protection services. This year, our Office had to turn away **296** complaints about children's aid societies (CASs). The chart below shows the number of complaints and inquiries to our Office about CASs over the past five years:

Fiscal Year	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010
Complaints	436	609	431	429	296

The complaints we received covered a broad range of issues and allegations, including:

- CAS refusal to investigate, or to thoroughly investigate, allegations of abuse and neglect;
- concerns about CAS apprehension of children and the care of children in CAS custody or supervision;
- inaccurate CAS records;
- threatening and harassing conduct on the part of CAS staff; and
- CAS refusal to permit access to children in their custody.

Since 2006, some recourse has been available to complain about children's aid societies through the Child and Family Services Review Board (CFSRB). However, we continue to receive complaints about the Board's limited mandate in this area. The Board's focus is on procedural issues rather than substantive concerns about CAS agencies. This year, we received **7** complaints about the CFSRB.

A number of petitions circulated in 2009-2010 called for the Ombudsman to be provided with authority over child protection matters. A private member's bill, **Bill 93**, the *Ombudsman Amendment Act (Children's Aid Societies), 2008*, introduced by the NDP's Andrea Horwath on June 11, 2008 for the purpose of bringing children's aid societies within the Ombudsman's jurisdiction, did not proceed past first reading and died when the Legislature was prorogued in March 2010. Bill 130, the *Children's Safety and Protection Rights Act, 2008*, introduced by PC MPP Lisa MacLeod, also included provision for Ombudsman oversight of children's aid societies, but failed to pass second reading on April 30, 2009.

Public rallies were held in support of Bill 93, including at least 10 in locations across the province in October 2009. Several more were held in the spring of 2010, calling for the reintroduction of the bill after the provincial parliament was prorogued.

Police

The Ombudsman continues to be barred from investigating police conduct and the process for reviewing public complaints about police, including the Office of the Independent Police Review Director, which began operations in October 2009. We received **227** complaints concerning municipal and provincial police that were beyond our authority to address.

Operations overview

Thousands of people complain to the Ombudsman about Ontario government services every year – in 2009-2010, our Office received **12,444** complaints and inquiries. We are able to resolve most of these within **15** working days or less, thanks to our process of triage and early resolution. Front-line staff – our **Early Resolution Officers** – identify complaints that can be quickly resolved or referred, usually settling them informally by contacting the government organization in question. (Examples of some of these successfully resolved cases can be found in the **Case Summaries** section of this report.) Issues that require investigation are passed on to our **Investigators**.

Throughout our Office, staff work to identify trends in complaints and potential systemic issues. Some of these become the subject of broad, high-profile investigations by our **Special Ombudsman Response Team (SORT)** – while others are tackled by addressing them proactively with senior officials in the most complained-about government organizations.

This streamlined, two-pronged approach has proven highly effective in the past five years, allowing us to assist thousands of complainants one-on-one, while confronting – and ultimately recommending ways to avert – major systemic problems affecting far greater numbers. (For more on how our Office is organized, please see the **About the Office** and **How We Work** charts elsewhere in this report.)

In 2009-2010, our staff met with senior government officials to discuss recurring or potentially systemic issues involving, among other things, family support orders, health-related problems, motor vehicle registration, legal aid, services provided by the Public Guardian and Trustee, and the administration of applications for employment retraining grants.

As in previous years, we met regularly with senior officials from organizations that are frequent sources of complaints, including the Ministry of Community Safety and Correctional Services, the Family Responsibility Office, the Ontario Disability Support Program and the Municipal Property Assessment Corporation. Some examples of our achievements in these areas follow.

Corrections

Correctional institutions have historically been a major source of complaints to the Ombudsman. Since 2005, we have focused resources on complaints about serious health and safety issues, while encouraging inmates to use internal complaints mechanisms to address other concerns. In 2009-2010, we worked closely with superintendents and regional directors in the corrections system and the Correctional Investigation and Security Unit (CISU) to ensure that complaints by inmates about assaults from other inmates or corrections personnel were being properly investigated.

Here are some examples of serious issues we dealt with in the corrections system this past year:

- We assisted an inmate who alleged that two corrections officers had seen another inmate attack him. The officers denied this, but were contradicted by video evidence – and a subsequent internal investigation supported the inmate's story.
- We raised two cases for investigation by the CISU, which ultimately found corrections staff had used excessive force on inmates – and failed to properly document the use of force as required by Ministry policy.
- We resolved several complaints by inmates who were unable to access their medication when they were transferred between facilities or released from court.
- We assisted an inmate who had mental health issues and wished to be segregated away from the general inmate population.
- We investigated a case where corrections officials imposed misconduct penalties on an inmate that extended his discharge date – and found the proper procedures for such penalties had not been followed. As a result of the Ombudsman's recommendations, a system was introduced to ensure misconduct penalties are properly imposed and documented. The Ministry also adopted a standardized Notice of Misconduct Disposition form, which is now used in all regions to inform inmates of the penalties they face and their appeal rights.

Family Responsibility Office (FRO)

Due to the high volume of complaints we receive about the FRO, we meet on a regular basis with senior officials to discuss issues and clusters of complaints that might suggest broad or systemic problems. These included complaints about unexplained delays or lack of action, unreasonable or inconsistent decision-making and serious administrative or clerical errors.

In one case brought forward by our Office, a single mother with children in university contacted us because she had not received any support payments since December 2006 and could not get any information from FRO. She was owed about **$150,000** in support. Ombudsman staff confirmed that FRO's enforcement of support payments had stopped because their office had misfiled a June 2007 court order. After we became involved, the woman's ex-husband was incarcerated for a day, paid $15,000 upon his release from jail and had $1,800 garnished from his bank account. Three months later, when the woman received no further payments, FRO initiated another warrant of committal, the man was arrested again and a further $18,000 was obtained for the support recipient, to whom FRO apologized. It also committed to issue further warrants if the payor continued to default on his obligations.

We also identified several complaints involving the *Garnishment Attachment and Pension Diversion Act* (GAPDA), which is the federal law allowing FRO to directly deduct support payments from payors who work for the federal public service and military. Although we have received and resolved many complaints about delays in the processing of these applications in the past, we noted a higher than usual trend, and found that in some cases the delays were caused by errors made by FRO in filing GAPDA applications. Even worse, if no support payments were received, FRO would not follow up with the federal organizations until three months after the applications were sent. As a result of our discussions with FRO about these cases, FRO improved its processes by, among other things, verifying its contact lists to ensure applications were sent to the correct addresses and requiring staff to follow up a month after the application is sent. FRO also established senior contacts at the federal level and now meets with them regularly to discuss problems. We continue to monitor complaints about GAPDA.

FRO's administrative errors also led to serious problems for many families who complained to us. A few examples:

- FRO failed to register a support payor's known alias; as a result, he was able to sell his house without being forced to pay $23,000 he owed his ex-spouse.
- FRO agreed to a man's request to lift the writ against him so he could sell his property, failing to realize it had a court order on file showing he still owed $8,000; he sold his home to his common-law spouse for $2 and escaped paying support to his ex-wife.
- FRO took years to act on information provided by a support recipient who was owed $23,000. By the time FRO placed a writ on the payor's property, his house had already been sold. When this information was brought to FRO's attention by our Office, it determined funds had been held in trust for the payor for years – it was able to garnish that money and collect all the outstanding arrears.
- FRO forced a man to pay his ex-wife's extraordinary expense claims for seven years, despite his repeated objections. When our Office intervened, FRO confirmed the claims should not have been enforced without proof that both the payor and recipient agreed in advance to the expenses, as required by the court order. FRO reduced the man's arrears by more than $16,000.

Clear and timely communication also continues to be a problem for FRO, according to our complaints. This was particularly evident in a number of cases we dealt with involving the application of cost of living adjustments (COLA). We dealt with two cases where FRO wrongly collected too much money from payors because of the way it applied COLA – and then stopped paying the support recipients to make up for it, without giving them prior notice. In one case, it discovered it had wrongly collected $6,000 over seven years from a payor, but it failed to inform the recipient that support payments would stop until the payor's $6,000 "credit" was eliminated. In the other, neither the payor nor the recipient was informed of $12,000 wrongly collected through COLA by FRO. The recipient learned of this from FRO's automated telephone information system when her support payments stopped – but the payor wasn't informed of the error for eight months, while FRO wrongly continued to collect support from him.

FRO has been among our Office's top three most complained about organizations for the past five years, and the percentage of complaints about FRO – relative to total annual complaints – has increased, **from 7.3% to 9.5%**. We continue to see cases where FRO takes no action for months or even years – until prompted by Ombudsman staff. These complaints are resolved on a case-by-case basis. Senior FRO staff acknowledge that the agency is "reactive" in dealing with recurring issues, and explain that its current client service model and resources make it difficult to tackle issues proactively. We were advised that FRO is making changes to its computer and telephone systems, its finance and document imaging and its policies in order to improve its services and case management.

We continue to monitor FRO complaints to determine whether a systemic investigation is warranted.

Ontario Disability Support Program (ODSP)

In quarterly meetings with ODSP officials this past year, complaint trends included anticipated changes to social assistance rules and the special diet allowance for some support recipients (recently reviewed by the Ministry of Community and Social Services). We are reviewing complaints that ODSP staff are not permitted to communicate by email with recipients – even though some people prefer to communicate this way because of their disability. We are also following up on the Ministry's response to a recent Social Benefits Tribunal decision, which determined that the ODSP's directive imposing an income cap on eligibility for the Assistance for Children with Severe Disabilities (ACSD) benefit is to be treated as a guideline only (as opposed to a strict eligibility requirement), and is to be considered along with other factors referred to in regulations when determining eligibility.

Last year's Annual Report noted that we had received complaints about delays of up to 13 months in processing appeals before the Social Benefits Tribunal. In 2009-2010, the tribunal reported an overall decrease in appeals and in cases awaiting appeal. By November 2009, the average time it took to schedule a hearing was 5.8 months.

Municipal Property Assessment Corporation (MPAC)

Our quarterly meetings with senior MPAC staff in 2009-2010 involved discussion of individual complaints, trends and customer service issues, which MPAC monitors closely. MPAC also made a presentation to Ombudsman staff to review changes and improvements that have been put in place since the Ombudsman's 2007 report, *Getting it Right*. The presentation detailed changes to legislation, MPAC's Request for Reconsideration process, and how property owners are advised of changes or corrections to their assessments.

Training and consultation

In addition to our daily work, our Office receives regular requests for advice and consultation from government agencies and other organizations. In 2009-2010, we hosted visits and provided presentations and advice to representatives from several such offices, including the federal Taxpayer's Ombudsman, the Ontario French Language Services Commissioner and the Information and Privacy Commissioner of Ontario.

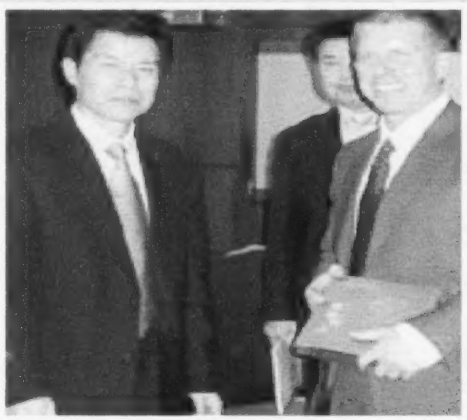
Senior Ombudsman staff also provided presentations to provincial government organizations to explain the Ombudsman's role, expectations and operations in detail, to foster a better understanding of our Office within the agencies we oversee. These groups included representatives from: The Public Guardian and Trustee, the Ministry of Transportation (Road User Safety Division and Licensing Services Branch) and the Ministry of Children and Youth Services (Service Delivery Division). We also made presentations to groups of MPPs' constituency assistants to outline our complaints process and encourage them to refer constituents' complaints to our Office.

> "Your remarks and presentations containing such valuable information were very much appreciated by myself and all the staff that attended."
>
> – Constituency Support Liaison, Liberal Caucus Service Bureau

Our approach to conducting administrative and oversight investigations has garnered global interest. We have welcomed delegations from across Canada and around the world who want to observe what we do and potentially adapt it to their own jurisdictions. In 2009-2010, these included delegations of senior civil servants from the government of Pakistan, the Chinese Ministry of Supervision, the Ombudsman of Catalonia, and the Deputy Ombudsman of Northern Ireland.

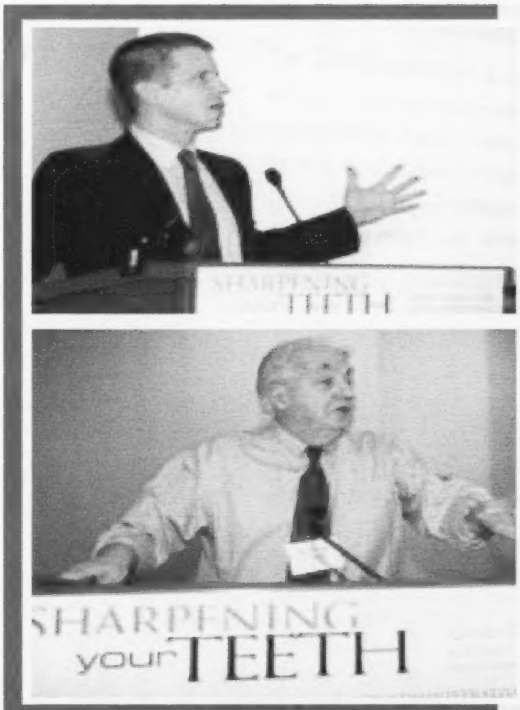
We are also frequently asked to provide training in investigative techniques. In December 2009, for the third straight year, our training course – **Sharpening Your Teeth: Advanced Investigation Training for Administrative Watchdogs** – was held in Toronto, this time for a record **80** participants. This year's course welcomed Prof. Gilles Paquet as keynote speaker and the Speaker of the Legislature, Steve Peters, as our distinguished guest at a reception for attendees. Conducted on a complete cost-recovery basis, the course was attended by representatives from investigative agencies from all levels of government, including most Canadian provinces as well as from the U.K., Ireland, South Korea, the U.S. and Brazil.

Sharpening Your Teeth has gained renown for its in-depth sessions on systemic investigations, witnesses and interviewing, investigative planning, assessing evidence, report writing and communications. [1] We also provided customized versions of this training in 2009-2010 to investigative agencies within the Ontario government, such as the Ministry of Community Saftey and Corrections' Corrections Investigations and Security Unit, as well as to international oversight agencies. International participants included the United Nations High Commissioner for Refugees Inspector General's Office, the Asian Ombudsman Association (including ombudsmen, anti-corruption and human rights agencies from 17 countries), the United Nations High Commissioner for Human Rights and the Ethiopian Institute of the Ombudsman, funded by the United Nations Development Programme.



Ontario Ombudsman André Marin greets Mr. Yang Cui, a Deputy Director General in China's Ministry of Supervision, whose delegation visited our Office in January 2010.

[1] More information about the training provided by our Office can be found on our website here: http://www.ombudsman.on.ca/en/what-we-do/training.aspx



Ombudsman André Marin (above) and Prof. Gilles Paquet (below) speak to "Sharpening Your Teeth" trainees, December 2009

Comments from **Sharpening Your Teeth** participants:

"The Special Ombudsman Response Team is a well-oiled machine. Learning from past successes will help to ensure better governance for tomorrow across Canada."

"Many innovative and common-sense approaches that I will take back to my workplace."

"Extremely well organized, on point and should be taken by everyone in our field of work."

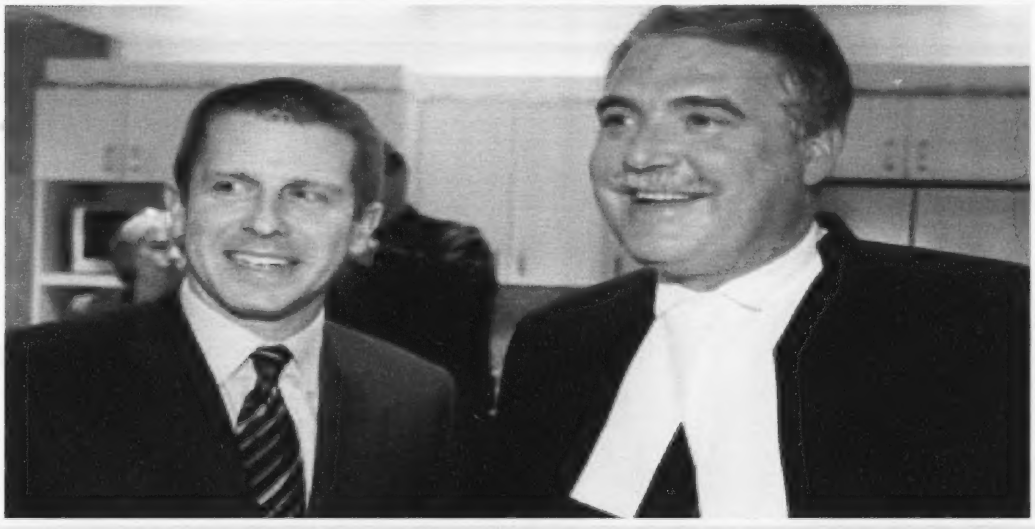
"Tremendously useful in terms of thinking about how to investigate properly and report effectively."

"This training session was the best I have ever attended – by a long shot."

"Professionally delivered by people who do the work and know the subject."

"I would recommend this training for all ombudsman investigative staff."

"I can't wait to share all that I have learned with my co-workers."



Steve Peters, Speaker of the Ontario Legislature (right) is introduced to "Sharpening Your Teeth" attendees by Ombudsman André Marin, December 2009.

Communications and outreach

From traditional news outlets and in-person outreach to interactive social media, communication with the Ontario public is essential to the Ombudsman's work. Our Office's strong focus on communications has enabled us to reach millions of people and interact directly with thousands. News coverage of our investigations and activities helps raise awareness of our services and drives traffic to our website, while social media allow interested members of the public to speak to us and to one another about the issues that are most important to them.

In 2009-2010, the Ombudsman's **Facebook** and **Twitter** following grew substantially, we established our own **YouTube** channel, and our website was expanded to add a "**Newsroom**" section that makes public sharing of information and comments easier. [2]

The Ombudsman and staff also made numerous speeches and participated in special events, including the first-ever "**Good Governance Week**" in Ontario – part of a nationwide recognition of parliamentary ombudsmen, celebrating the 200th anniversary of the creation of the first Ombudsman in Sweden in 1809.

Media: Traditional meets social

News media interest in our Office remains high, while traditional, web and social media are becoming increasingly intertwined. As of 2009-2010, all Ombudsman news releases are disseminated via our website, Twitter and Facebook as well as through traditional channels. Video of news conferences is posted on our YouTube channel, questions and answers are "tweeted" in real time, and the Ombudsman himself answers public questions on Twitter. The public can comment on press releases on our website and through social media, and our Office also has a Flickr photo stream, articles on Wikipedia and an e-newsletter available to thousands of subscribers.

All of these formats represent different types of engagement with the public and are measured in various ways. What follows are some of the measurements our Office uses to monitor the public impact of the Ombudsman's activities.

[2] Our website newsroom is located here: http://www.ombudsman.on.ca/en/media.aspx

Print Articles

In 2009-2010, there were **1,177** print articles published about the Ombudsman – most in daily newspapers – reaching an aggregate audience of more than **73 million** people. The estimated advertising value of these articles was **$2.1 million**. (Both the audience reach figure and the ad value are calculated by **FPinfomart** based on newspaper circulation and advertising rates, as well as the number, length and display of articles.)

Over the past five years, the Ombudsman's print media coverage has been consistently in this range. The peak occurred in 2006-2007 – the year of the Ombudsman's investigation into the Ontario Lottery and Gaming Corporation's "insider win" problem – the single largest topic of media coverage in our Office's history.

Year	Print articles	Audience reach	Ad value
2005-06	467	49 million	$1.7 M
2006-07	1,706	132 million	$3.4 M
2007-08	1,081	92 million	$2.75 M
2008-09	1,100	78 million	$1.9 M
2009-10	1,177	73 million	$2.1 M

Broadcast

Traditional broadcast media coverage in 2009-2010 was also strong, with **576** stories about the Ombudsman broadcast on radio or television (locally, provincially and nationally). Once again, looking back over five years, peak coverage occurred in the year of the lottery investigation, but has remained steady.

Year	Radio/TV items
2005-06	436
2006-07	1,338
2007-08	600
2008-09	675
2009-10	576

Social media

The Ombudsman began establishing a social media presence in early 2009. In just over a year, our Facebook fans and Twitter followers have grown dramatically, and our new YouTube channel has received thousands of views. Together, these represent thousands of new public contacts that simply would not have been possible just a few years ago.

The Ombudsman's **Facebook** page – facebook.com/OntarioOmbudsman – had more than **985** fans at the time of writing this report, and the page received an average of **1,000** visits each week. Fans ask questions, discuss issues with one another, share information, comment on events and receive information about the activities of our Office through Facebook.

Twitter has become an effective tool for the Ombudsman to receive feedback and answer questions from followers – more than **1,800** followers at the time this report was written. The Ombudsman maintains his own Twitter account. He and our staff have shared their views and expertise on social media with many officials throughout the public sector – particularly in the ombudsman and oversight field – to encourage more open and transparent participation by high-level officials.

The Ombudsman's **YouTube** channel makes it easier for Internet searchers to find our Office and assembles all of the Ombudsman's news conferences in one place. At the time of this writing, the total number of views for the channel's **19** videos was more than **3,300**.

Website

The Ombudsman's website added a new "Newsroom" section in mid-2009 to make it easier for users to access, share and comment on news releases, videos, the Ombudsman's Twitter stream, speeches, etc. According to Google Analytics, the site had **68,786** unique visitors in 2009-2010 and 108,933 total visits, an increase of **54%** (**59%** for total visitors) over the previous year. Most visitors are from Canada, the U.S. and the U.K., but we received visits from 170 countries overall.

Outreach

In a year that marked the bicentennial of the first parliamentary ombudsman, Mr. Marin made numerous speeches about the Office's history and future, and other staff members appeared at several conferences and outreach events such as community and job fairs. We also hosted the third edition of **Sharpening Your Teeth**, our training course for ombudsmen and administrative investigators, detailed elsewhere in this report.

The Ontario Legislature declared October 12-16, 2009 "**Good Governance Week**" as part of a cross-Canada recognition of provincial ombudsmen. The centrepiece of Good Governance Week was Mr. Marin's speech to the **Economic Club of Canada**, which focused on the importance of oversight of public institutions – including arm's-length agencies and corporations. The Ombudsman and his provincial counterparts also participated in other events throughout the week, including guest-blogging at Slaw.ca, a national law blog. Our Office also released a new edition of our **Sunshine Law Handbook**, detailing the new system for public complaints about closed municipal meetings, for distribution to the public and to municipal officials across the province.

Ombudsman André Marin prepares to address the world conference of the International Ombudsman Institute marking the 200th anniversary of the first Ombudsman in Stockholm, June 2009.

Special Ombudsman Response Team – SORT

The **Special Ombudsman Response Team** was created by Ombudsman André Marin in 2005 to investigate major, high-profile and systemic issues that have a strong public interest component. SORT investigations frequently result in Ombudsman recommendations to improve public policy and government administration in areas of importance to large numbers of Ontario citizens. By tackling the root cause of an issue, the Ombudsman can resolve hundreds or even thousands of complaints with one targeted SORT investigation.

Methods employed by SORT investigators include careful case assessment, rigorous planning and evidence gathering. More than two dozen SORT investigations have been completed in the past five years, most of those resulting in public reports by the Ombudsman – although some cases are satisfactorily resolved without need for a report.[3] The Ombudsman's recommendations have been overwhelmingly accepted and often championed by the government, which at times has taken its reforms even further than he recommended. SORT investigations have led to sweeping changes to the Ontario Lottery and Gaming Corporation, the Criminal Injuries Compensation Board and numerous other organizations and agencies.

One of the keys to the effectiveness of the SORT approach is rigorous and consistent follow-up. The Ombudsman regularly reports on updates from government agencies on their progress in implementing his recommendations, and investigators conduct reviews as needed to ensure that the promised improvements are being implemented.

The Ombudsman's SORT approach has been praised for setting a new standard for administrative and oversight investigations and has been studied and adapted by investigative agencies all over the globe. The training course developed by our Office and conducted on a full cost-recovery basis, entitled **Sharpening Your Teeth: Advanced Investigative Training for Administrative Watchdogs**, is now in its fourth year. More than **200** ombudsmen and investigators from across Canada and around the world have benefited from the course (for more information, see the **Training and Consultation** section of this report).

[3] Information on all SORT reports and investigations can be found on the Ombudsman's website, here: http://www.ombudsman.on.ca/en/what-we-do/special-ombudsman-response-team/sort-investigations.aspx

SORT investigations completed in 2009-2010

Too Cool for School – Bestech Academy

On July 14, 2009, the Ombudsman released *Too Cool for School*, his report on the SORT investigation into the Ministry of Training Colleges and Universities' oversight of Bestech Academy. Bestech was an illegally operating private career college that offered vocational courses in gas technician and oil burning technology. It had been in business for almost two years when it closed abruptly in October 2008, leaving students out of pocket and with no certification. The Ombudsman's investigation revealed that the Ministry had actually approved and funded several students to study at Bestech Academy through its Ontario Skills Development program. On top of that, not long after Bestech closed, another branch of the Ministry hired Bestech's unscrupulous president, unaware that she had been an operator of an illegal school and that the Ministry's own enforcement branch had issued a restraining order against her.

The Ombudsman identified several examples of the lack of effective Ministry oversight of Bestech and private career colleges in general. He emphasized the importance of ensuring that students and taxpayers are protected, particularly in tough economic times that create increased demand for vocational training. He found that the Ministry had allowed Bestech to operate with impunity, despite its failure to meet the requirements for registration as a private career college.

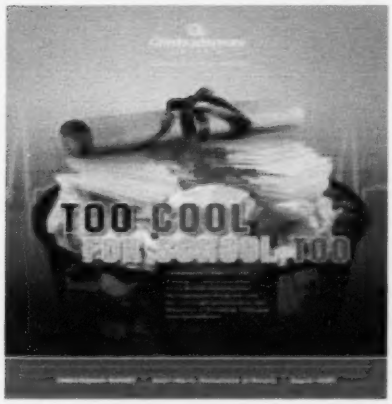
The Ombudsman made **11** recommendations, including that the Ministry issue public warnings when it becomes aware of a risk to student consumers. He also called for rigorous enforcement of the *Private Career Colleges Act, 2005* – under which no charges had ever been laid – including tracking information about illegal operators and seeking prosecution of offenders whenever appropriate. He recommended that the Ministry develop regulations to allow it to enforce penalties against unregistered private career colleges, and that it consider employing provincial offences officers to ensure that the regulations are enforced. He said the Ministry should work with regulatory bodies to ensure that illegally operating private career colleges are not promoted as vocational trainers. As well, he recommended that, where appropriate, the Ministry compensate former students of Bestech.

Subsequent to the Ombudsman's recommendations, the Ministry revised its website to increase the information available to students about illegally operating colleges. In the fall of 2009, it introduced new regulations to enhance its enforcement powers, including the imposition of administrative monetary penalties, and hired additional inspectors. In December 2009, it began levying fines against private career colleges for the first time, and in April 2010, it introduced new legislation that will, among other things, increase the maximum available penalties for individuals from $25,000 to $50,000 for offences under the Act.

The Ministry of Consumer Services has also pursued charges against the president of Bestech Academy as a result of complaints received from students about unfair practices. In addition, although the Ministry of Training, Colleges and Universities declined to compensate former students of Bestech, at the time of writing this report, three students had been successful in pursuing complaints through the Ministry of Consumer Services to recover the amount of their lost tuition.

"When students are ripped off by an illegal career college, which the province knew about but did not shut down, we have a problem. When the province is sending workers in its own retraining program to this same college, we have what Ombudsman André Marin calls "abjectly inept" oversight... The province has to do its part by ensuring that those who opt for a private career college are properly educated and protected."

– *Toronto Star* editorial, July 19, 2009



Too Cool for School Too – Cambrian College

The Ombudsman's report *Too Cool For School Too*, released on August 25, 2009, details the SORT investigation into Cambrian College's administration of its Health Information Management program and the Ministry of Training, Colleges and University's oversight of the college.

The Ombudsman's investigation dealt with complaints from 13 former Cambrian students that the Health Information Management (HIM) program failed to qualify them for jobs in the field for which they had spent two years studying. They alleged that Cambrian College had promised that a diploma from its program would lead to high-paying jobs in the health records sector. Cambrian's promotional material referred to the course as being based on the requirements of the Canadian Health Information Management Association (CHIMA), which controls entry into the profession through a national certification examination. However, Cambrian had not obtained recognition from CHIMA, leaving two classes of graduates unable to write the professional certification exam. Graduates of the program soon discovered that without CHIMA certification, hospitals did not consider them employable as HIM professionals.

SORT investigators interviewed former students, Cambrian administrators and instructors, CHIMA executives and health records professionals, as well as HIM instructors at other Ontario colleges and senior officials at the Ministry of Training, Colleges and Universities.

Some Cambrian students had spent tens of thousands of dollars and two years of study on what they considered to be a worthless diploma. One 29-year-old single mother of two had invested **$25,000** in her years at Cambrian, only to remain unemployed after graduation because she was not CHIMA certified. Another student incurred **$17,000** in debt and had to travel six hours south of Sudbury (where Cambrian is located) to obtain a placement in a hospital, but lost her position when the hospital discovered she had not attended a CHIMA-recognized program. She was only able to regain the job by completing a CHIMA-recognized online course, essentially redoing her second year of study, while working full-time.

The Ombudsman found that although Cambrian College had repeatedly reassured students that its HIM program would be recognized by CHIMA, the college did not apply to CHIMA until its first crop of students were preparing to graduate. He also found that Cambrian's program fell far short of CHIMA's recognition standards – something the college was well aware of when CHIMA twice detailed its reasons for rejecting Cambrian's applications.

The Ombudsman concluded that Cambrian College failed to live up to its statutory mandate and that it poorly served the students and graduates of the HIM program, which had received hundreds of thousands of taxpayer dollars since its inception. "Ontarians are entitled to expect more of their public institutions," he noted.

He also found that Cambrian College showed no remorse for the difficult situation that it had put its students in; indeed, it denied ever having misled students about their job prospects and stridently defended its conduct. "Regrettably, the superior "too cool for school" attitude evidenced by the College is a discredit to its statutory objectives," he stated in the report.

The Ombudsman recommended that Cambrian compensate the graduates of the HIM program for the losses they suffered as a result of the program deficiencies, but the college refused. On March 10, 2010, it announced that it was suspending the HIM program for future years.

The Ombudsman also found that the Ministry had "abdicated any responsibility to ensure that a college actually delivers a program." He noted that Cambrian's disregard for its commitment to seek CHIMA recognition was fostered by a system for college program development and approval that sacrifices the interests of education consumers to the autonomy of educational institutions. He remarked that while the Ministry sets broad policy directives, it had no effective mechanisms in place to ensure that colleges complied.

He recommended that the Ministry implement safeguards – including active monitoring, where appropriate – to ensure that colleges fulfill representations made in program funding approval requests. Although the Ministry resisted the suggestion that there was a systemic problem requiring it to exert more control over college programming, it agreed that the case demonstrated the need for a binding policy directive to ensure advertising and promotion of college programs is accurate.

> Thank you for this outstanding report. It serves as a most persuasive case study for the government to act now to review with immediacy and intensity the systemic elements of concern about the sloppy and irresponsible development and administration of the program elements in the college system - and there are without question, as the report suggests, systemic concerns... You have made a significant contribution to the continuing evolution of the post-secondary system in this province.
>
> — Dr. Harry K. Fisher, former deputy minister of Education and Colleges and Universities, email to Ombudsman, August 27, 2009

Ontario Ombudsman André Marin releases his report on Cambrian College, Too Cool for School Too, *in August 2009.*

Positron Emission Tomography – PET scans

Almost eight years ago, the Ministry of Health and Long-Term Care decided to conduct clinical trials to determine whether it should fund Positron Emission Tomography (PET) scans for patients with certain cancers and other conditions. The lengthy delays in this evaluation and clinical trials prompted more than **45** complaints to the Ombudsman from doctors, patients and other stakeholders, many of whom argued that Ontario was lagging far behind other provinces in the use of this technology. Ontario has **nine** PET scanners in five cities across the province.

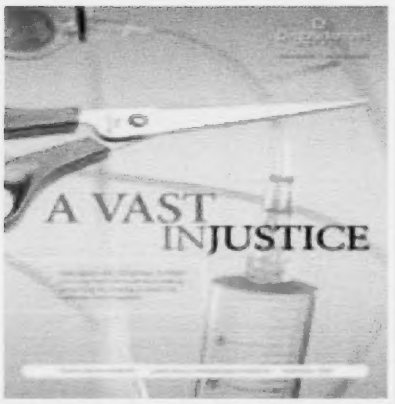
At the conclusion of his investigation in the spring of 2009, the Ombudsman met with the Deputy Minister to review his findings and recommendations, which focused on the need for clarity and speed when assessing new technologies, as well as expediting access to government funded PET scans for those who meet the Ministry's criteria. The Ombudsman also stressed the need to increase awareness of the Ministry's access program, which allowed other patients who did not meet its criteria to apply for special consideration to access PET scans.

In response to the Ombudsman's findings, the Ministry announced on July 23, 2009 that it would make PET a publicly insured health service for certain cancer and cardiac indications. Previously, physicians had to request access to PET for their patients from the Ministry through a process that was not entirely clear or particularly well communicated. The Ministry also agreed to a reform of the PET Steering Committee, and to establish a process for considering additional indications to be insured for PET. It also committed to ensuring that there would be more openness and transparency in its communications with physicians and the public and that future technology assessments would be better planned and resourced, with appropriate accountability throughout.

In light of the Ministry's response to his findings, the Ombudsman determined that the matter could be resolved without a published report. At the time this report was written, the Ministry was developing an accountability agreement with Cancer Care Ontario (CCO) to look at uninsured PET services.

In February 2010, Ombudsman staff met with representatives from CCO to discuss issues relating to PET. Once the accountability agreement is finalized, a process will then be developed with respect to considering other types of indications for an insured service. The Ombudsman will continue to monitor the Ministry's progress in ensuring access to PET scans and in improving the evaluation of emerging technologies.

> "Your team is to be congratulated for their dogged and thorough approach to moving this important PET scan issue forward. Your continued monitoring gives people some confidence that the program will be rolled out as described. God bless all of you."
>
> – Darwin Brunne, comment posted at Ombudsman.on.ca



A Vast Injustice – Cancer drug funding

In May 2009, the Ombudsman was contacted by an MPP on behalf of a constituent who suffered from metastatic colorectal cancer. The man had been receiving the drug Avastin, but had been told the Ministry of Health and Long-Term Care would no longer pay for it. Media reports detailed the stories of several other patients facing a similar plight – the government was cutting off their funding for Avastin after **16** treatments administered in two-week intervals.

The patients' oncologists recommended that they continue Avastin treatment to fight the progression of their disease. But few could afford to continue this life-prolonging treatment at **$1,500-2,000** per cycle. Some were forced to give up the drug, some paid for it out of their savings, and some raised money in the community.

The Ombudsman announced his investigation into the Ministry's decision-making concerning the funding of Avastin for colorectal cancer on June 3, 2009. Within weeks, SORT staff conducted more than **65** interviews with officials from the Ministry, Cancer Care Ontario, oncologists, patients and interest groups.

The Ombudsman's report *A Vast Injustice* was published on September 30, 2009. It found that the Ministry's cap on funding was not supported by any medical evidence. Since late 2005, Ontario oncologists specializing in the treatment of colorectal cancer had been calling for Avastin to be used as a matter of standard patient care, with treatments to continue until the patient's disease progressed. However, an advisory committee recommended in early 2006 that the Ministry reject funding of the drug because it was not cost-effective.

That decision changed in June 2008, when the Ministry negotiated a better price for Avastin, and Ontario became the seventh province to publicly fund the drug for metastatic colorectal cancer patients (there are now eight). But when it announced this public funding on July 2, 2008, few patients or physicians were aware that it was limited to 16 cycles, regardless of the patient's condition. No other province had such an inflexible funding cap.

Ministry officials provided a variety of explanations for the 16-treatment cutoff, but the Ombudsman determined it was essentially a cost containment measure. While he acknowledged that government policy-makers have the right to decide that a drug is simply too expensive to fund, he concluded that once the decision is made to pay for a drug, any move to limit the number of treatments available must take a patient's progress into account. He found that the Ministry had created an arbitrary and artificial barrier to patient access to Avastin, unsupported by medical evidence.

The Ombudsman also noted that the Ministry did not appear to be tracking how many patients were receiving Avastin or how much it had spent, and that its communications about the Avastin funding cap were at times misleading to patients and physicians.

The Ombudsman recommended that the Ministry immediately lift the funding cap for Avastin and that it reimburse those patients who had paid for additional treatments at their own expense. He also recommended that the Ministry ensure that decisions about the funding of new drugs include a summary of the financial and medical considerations relied upon in reaching the decision, and that this information be publicly available. In addition, the Ombudsman recommended that the Ministry centrally monitor the number of patients receiving drugs under its new Drug Funding Program, including duration of treatments and costs.

Two months after the release of the Ombudsman's report, the newly appointed Minister of Health and Long-Term Care announced that the Ministry would lift the cap and expand access to Avastin for colorectal cancer patients who are responding well to treatment. The new criteria would pay for treatment for up to **24** cycles, with additional treatments available according to the advice of the patient's physician. The Ombudsman welcomed this decision, noting that it had taken Ontario from being "one of the worst to the first" among provinces funding Avastin for colorectal cancer patients.

The Ministry also acknowledged that a detailed rationale for funding Avastin had not been publicly posted and agreed to do this as soon as possible. It also undertook to discuss the monitoring of drug expenditures, including Avastin, with Cancer Care Ontario, and requested an analysis from the manufacturer. The Ombudsman will monitor the Ministry's progress as it reports back to the Ombudsman every six months on these issues.

> "Kudos to the Ombudsman. Keep up the good fight on behalf of all cancer patients. We have the right to expect nothing but the best, even if we only have six months left."
>
> – J.D. Sams, comment posted on CBC.ca

> "You have done a great service to patients with advanced colorectal cancer in Ontario.
>
> – A Toronto oncologist, email to Ombudsman, *Email to SORT, November 30, 2009*

Dental implants

A 55-year-old man complained to the Ombudsman that the Ministry of Health and Long-Term Care had refused him funding for four dental implants. The man suffered from squamous cell carcinoma and his treatment, beginning in 2006, had involved extensive surgery to remove cancerous tissue and bone from his face and mouth, including the removal of his upper jaw and palate. He also underwent reconstructive surgeries and skin grafts, followed by chemotherapy and 28 radiation treatments.

By January 2007, the complainant had experienced severe complications that left him unable to speak or eat properly. Because so much bone had been removed from the left side of his face, it began to collapse, and both his physical and psychological condition deteriorated.

The man's doctors determined that his condition could only be remedied through a procedure that involved a prosthesis and the insertion of four titanium screws or "dental implants" into what remained of his jawbone. He applied for Ontario Health Insurance Plan (OHIP) funding but was turned down on the basis that dental implants are not "insured devices." His subsequent appeal to the Health Services Appeal and Review Board was turned down because, though acknowledged as medically necessary, the implants were not listed in the Schedule of Benefits for Dental Services.

SORT investigators looked into the potential systemic implications of this issue. OHIP officials explained that dental implants are not insured as they are generally used in cosmetic dentistry. After further discussions, however, Ministry officials reviewed the complainant's file, acknowledged that his case was exceptional and agreed to fund the implants needed for his surgery in October 2009.

The Ministry also acknowledged that there may be others in such exceptional circumstances, and undertook to address the gap in the system to allow them to access funded dental implants. SORT investigators are monitoring the Ministry's progress.

SORT assessments completed in 2009-2010

Combination therapy for Pulmonary Arterial Hypertension

Since May 2009, the Ombudsman's office has received **30** complaints from patients, physicians and other concerned individuals regarding the Ministry of Health and Long-Term Care's position on funding combination drug therapy for patients with pulmonary arterial hypertension (PAH).

Pulmonary arterial hypertension is a rare condition affecting the arteries of the lungs where the arteries become closed off or scarred, resulting in high blood pressure in the lungs. It is an incurable disease that mainly affects women. It is estimated that as many as 10,000 people across Canada suffer from PAH, but the exact number is unknown, as there have been few studies done and the disease often goes undiagnosed in its early stages. Although PAH is a progressive disease, treatments may help to prolong life. Depending on a patient's circumstances, some physicians feel that prescribing more than one drug is appropriate for the treatment of the disease.

The Ombudsman initially received complaints from two PAH patients who had been told that they would no longer be receiving funding for a drug called Flolan (epoprostenol). Both patients had been using Flolan in combination with other drugs to control the disease. They were very concerned that stopping the medication would result in a rapid deterioration of their condition, but it would cost them each up to **$60,000** per year to pay for it themselves.

The Ministry of Health and Long-Term Care's position was that it would only provide funding for monotherapy – that is, for one drug used at a time; it would not fund a drug to be used in combination with others, even if (as was the case for these patients) the other drugs were funded through another source, such as through a clinical trial, via an employee benefits plan, or provided on a compassionate basis by a pharmaceutical company. The Ministry was not convinced that there was sufficient clinical data to demonstrate the efficacy of combination therapy, and it had cut off funding to the two patients when it learned they were combining Flolan with other drugs. However, it invited the patients' physicians to make submissions on the issue.

Subsequent to informal inquiries from SORT investigators, the Executive Officer and Assistant Deputy Minister of the Ontario Public Drug Programs Division reviewed the two cases and decided to grant approval for continued funding for another year. However, we soon heard from other patients, whose requests for coverage for other drugs to be used in combination to treat PAH had been turned down. The Ombudsman continued to monitor the issue and in August 2009, SORT investigators met with a representative of the Pulmonary Hypertension Association of Canada to gain a better understanding of the issues around combination therapy and funding practices in other provinces. SORT investigators also met with physicians who were treating PAH and Ministry officials who advised that they were actively reviewing the issue of combination therapy.

In April 2010, the Ministry approved revisions to the Exceptional Access Program reimbursement criteria for PAH drugs to include consideration of requests for combination therapy for patients who have not achieved treatment targets after at least three months of monotherapy. Requests for PAH drugs are to be made through designated PAH referral centres in the province; a change advocated by clinicians and patient groups. The case is now considered resolved, but the Ombudsman will continue to follow up with the Ministry, physicians, and complainants to monitor developments in this area.

Ministry of Labour – Employment Practices Branch

In spring 2009, SORT investigators conducted an assessment of complaints about delays in claims handling at the Ministry of Labour's Employment Practices Branch (EPB), to determine whether a systemic investigation was warranted.

Complaints to the Ombudsman about the EPB increased from **42** in 2008-2009 to **76** in 2009-2010. Most complaints involved delays of six months or more for an initial claim assessment and, if the claim is not resolved, an additional 10-month delay for assignment to an investigator. EPB staff contacted by Ombudsman staff acknowledged these delays and attributed them to a backlog of claims.

In March 2010, SORT investigators met with Ministry and EPB staff, who advised that a new "employment standards modernization strategy" was being implemented to deal with the claims backlog and improve service delivery. Details of the strategy will be released in the coming months and will be implemented this year.

In the provincial budget, released March 25, 2010, the government committed an additional $6 million over two years to help reduce the backlog of claims and improve the protection of Ontario's employees.

The Ombudsman will continue to monitor the EPB's implementation of its new strategy and assess whether the existing backlog is being reduced and claims before the EPB are being processed efficiently.

Ontario Energy Board – Door-to-door retailers

The Ombudsman has received numerous complaints about the practices of energy retailers in recent years, including **104** in 2009-2010. Most of these complainants alleged that they were bamboozled into signing contracts that were not in their best interests. Some charged that the Ontario Energy Board (OEB) was doing little to protect consumers. While the Ombudsman does not have jurisdiction to deal directly with complaints about private energy retailers, he does oversee the Ontario Energy Board (OEB), which regulates the province's electricity and natural gas sectors.

Several complainants asked that the Ombudsman launch a systemic investigation into the OEB's oversight of these retailers. SORT investigators conducted an assessment of the complaints received, as well as the steps taken by the OEB to address these concerns, in order to determine whether a systemic investigation was warranted.

In October 2009, representatives from the OEB provided SORT staff with an overview of their role in overseeing the energy sector and answered specific questions about the practices of private energy retailers. The Ombudsman also noted that the Ministry of Energy and Infrastructure was aware of consumers' problems with door-to-door sellers. In December 2009, the *Energy Consumer Protection Act (ECPA)* was introduced and the Ministry posted information on its website, setting out how the provisions of this Act will protect consumers from unscrupulous retailers. The Act received royal assent on May 18, 2010.

The Ministry's website lists some of the common problems complained about by consumers, including the sales practices of energy retailers, inadequate information provided to consumers, issues relating to verbal contracts, pressure to get consumers to sign agreements, unfair cancellation fees and automatic contract renewals, and issues relating to retailers' accountability. The website also sets out proposed solutions for each of these issues.

In light of the steps currently being taken by the Ministry, the Ombudsman determined that a systemic investigation was not warranted at this time. He will continue, however, to closely monitor both the Ministry and the OEB's efforts to ensure that consumers receive adequate protection in their dealings with private energy retailers.

Wind turbines

Over the past year, our Office has received **30** complaints from individuals and groups about wind turbines. Many raised concerns over the potential health effects associated with wind energy. Others complained that there was no formal mechanism for individuals to raise complaints about wind turbines. Some were dissatisfied with the responses they had received from the government when they had raised these concerns.

SORT investigators assessed the complaints to determine whether a systemic investigation was warranted. Our review focused on whether the government had in place, or was creating, an administrative process to receive and respond to complaints about wind turbines, including health-related complaints. Among those contacted were officials in the Ministry of Health and Long-Term Care, the Ministry of the Environment, the Ontario Agency for Health Protection and Promotion, Ontario Public Health Units, and the Office of the Chief Medical Officer of Health, as well as various complainants and interest groups.

During our assessment of these complaints, the Ministry of the Environment arranged to fund the establishment of a Research Chair in Renewable Energy Technologies and Health. One of the duties of the Chair will be to develop and publish a body of research on the potential health effects of renewable energy technology, beginning with studies of potential health effects related to wind energy. The Office of the Chief Medical Officer of Health also conducted a review of scientific evidence on potential health impacts of wind turbines and released a report on May 20, 2010 stating that there is no direct causal link between turbines and adverse health effects.

Opponents to wind energy development filed a judicial review application in October 2009, arguing that development should not continue without further study of the health effects of wind energy. That application is currently before the courts.

Given all of this, the Ombudsman has determined that a systemic investigation is not warranted at present, but SORT staff will monitor the issue. We continue to receive updates from the Ministry of the Environment with respect to its efforts to establish mechanisms to address complaints about wind energy operations.

Ongoing SORT investigations

Hamilton Niagara Haldimand Brant LHIN

The Ombudsman's investigation into the decision-making process of the Hamilton Niagara Haldimand Brant Local Health Integration Network (HNHB LHIN) focused on the LHIN's approach to its mandate for "community engagement" in dealing with proposals for the restructuring of health services.

The HNHB LHIN is one of 14 Local Health Integration Networks (LHINs) across Ontario. Since they were created in 2006, LHINS have been responsible for planning, funding and integrating local health systems. They disburse approximately $20 billion each year to local health service providers.

The Ombudsman's investigation was launched in March 2009 after the Office received **40** complaints from residents, community groups and health care professionals, among others. Another **69** complaints were received after the investigation was announced. The complaints questioned the LHIN's stakeholder consultation process in its handling of two local restructuring proposals – the Hamilton Health Sciences Access to Best Care Plan, and the Niagara Health System's Hospital Improvement Plan. Some accused the LHIN of lacking transparency and failing to fulfill its mandate for "community engagement" and argued that its public consultation efforts were inadequate.

Investigators interviewed more than 50 people, including residents, physicians, representatives of community groups, municipal politicians and health service providers. They also obtained and reviewed a substantial amount of documentation provided by the LHIN, the Ministry of Health and Long-Term Care and stakeholder groups.

The Ombudsman's investigation did not address the merits of the Hamilton Health Sciences or Niagara Health System Plans themselves, as the Ombudsman does not have jurisdiction over hospitals or local health services.

The fact-gathering portion of the investigation was completed in late 2009 and the Ministry and the HNHB LHIN were provided with the Ombudsman's preliminary findings and given an opportunity to make representations and comments. At the time this report was written, the Ombudsman was in the process of finalizing his findings.

Long-term care

The Ombudsman's systemic investigation into the Ministry of Health and Long-Term Care's oversight of long-term care homes focused on two issues:

- the effectiveness of the Ministry's monitoring of the facilities to ensure compliance with statutory requirements and policy standards; and
- whether the Ministry standards are unrealistic, trivial or onerous to the extent that they detract from effective compliance monitoring and patient care.

Launched in July 2008, the investigation was prompted by more than **100** complaints to the Ombudsman's Office about long-term care facilities. Since then, more than **450** complaints and submissions have been received from long-term care residents and workers, family members of residents, advocates, health professionals, professional associations, unions and other stakeholders. Of these complaints, about **170** specifically relate to the Ministry's Performance Improvement and Compliance Branch and its Compliance Management Program, which conducts inspections of long-term care homes and is intended to safeguard the rights of residents by ensuring that operators comply with legislation, regulation, policies, standards and service agreements.

Although the Ombudsman's mandate does not extend to long-term care homes, meaning he cannot investigate the facilities directly, he does have jurisdiction over the Ministry and the way it responds to concerns about them. Many complainants were unhappy with the way the Ministry handled their complaints about the treatment of long-term care residents. Some complained of a lack of communication and transparency. Others criticized the Ministry's inspection and monitoring process as insufficiently thorough, overly bureaucratic and not objective. Some felt the standards compliance process actually impeded the provision of care to residents.

In SORT's largest investigation to date, investigators conducted more than 250 interviews with long-term care residents and family members, stakeholders including unions, regulated health profession associations, long-term care staff, experts, compliance advisors, related service providers and Ministry officials. They also reviewed how long-term care homes are monitored in other jurisdictions.

The investigation generated a vast amount of evidence, including tens of thousands of pages of documentation. During this time, the government introduced regulations that were designed to address some of the issues under investigation, which SORT staff and the Ombudsman monitored closely. At the time this report was written, the Ombudsman was in the process of preparing his findings for release.

Updates on previous SORT investigations

Oversight Unseen – Special Investigations Unit

On June 2, 2009, the Ombudsman informed the Special Investigations Unit (SIU) that SORT investigators would be conducting a follow-up review of the SIU's six-month progress report in response to the Ombudsman's 2008 report, *Oversight Unseen*. The Ombudsman made 46 recommendations in the report, aimed at increasing the rigour and timeliness of the SIU's investigations, strengthening its mandate and independence, and increasing its transparency.

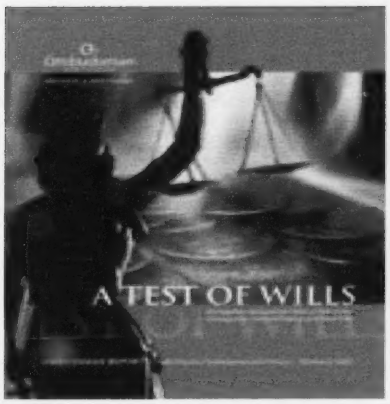
The review includes examination of SIU case files and documents, the applicable legislation, SIU and Ministry of the Attorney General protocols and interviews with, among others, the SIU Director, the Executive Officer, the Assistant Deputy Attorney General and several SIU investigators – full-time and "as needed." At the time this report was written, the Ombudsman's review was ongoing, with results to be released at a later date.

Coroner's inquest delays

In 2008, the Ombudsman began an investigation into complaints that mandatory inquests were not being held within a reasonable time frame. The *Coroners Act* specifies that an inquest must be held whenever a person dies while being detained in a correctional institution, in the custody of the police, or while working at a construction site or mine. SORT investigators gathered information from the Office of the Chief Coroner of Ontario and the Ontario Provincial Police that revealed there were substantial delays. Because the Coroner's Office acknowledged the problem and was working to address it, the Ombudsman suspended his investigation in March 2009.

The Coroner's Office provided the Ombudsman's Office with an update of its progress in September 2009. Based on that report, additional information from the Ontario Provincial Police, and a review of inquest case delays in 2009, the Ombudsman determined that no further investigation was warranted at this point, as measures were being put in place to speed up the process. These included addressing a backlog of cases with the Ontario Provincial Police through improved administrative and investigative practices. The overall number of cases was also reduced through amendments to the *Coroner's Act* that made inquests discretionary rather than mandatory in cases where, for example, someone in jail dies of natural causes.

SORT staff continue to monitor the progress of the Coroner's Office on this issue and will assess any additional complaints.



A Test of Wills – Legal Aid Ontario

The Ombudsman continues to monitor complaints about Legal Aid Ontario (LAO) to ensure its practices reflect the new policies and procedures for court-ordered publicly funded counsel that were implemented in response to his 2008 report, *A Test of Wills*.

That report set out the results of the Ombudsman's investigation into how Richard Wills, a self-described millionaire who murdered his longtime lover, got the province to pay his defence bills of **$1.1 million**, even though he deliberately impoverished himself by divesting his assets to family members. Two special court orders required the Ministry of the Attorney General to pay Mr. Wills' costs, and it in turn relied on LAO to vet the defence lawyers' bills. The Ombudsman found that although LAO assured the Ministry it was doing so, it approved nearly **$609,000** worth of bills from one lawyer before Mr. Wills fired him. In all, Mr. Wills had 11 different lawyers, seven of them paid for by Ontario taxpayers.

The Ombudsman concluded that LAO's failure to adequately administer the funding arrangement in the Wills case was unreasonable and wrong. Since then, in response to the Ombudsman's recommendations, LAO has taken several steps to prevent this from recurring, including increasing senior management oversight of all cases costing more than $75,000, reviewing its handling of "big cases" and establishing a protocol and process for the management of court-ordered publicly funded counsel. LAO also implemented a corporate-wide program that outlines its expectations of behaviours that conform to the values and ethics of a public-sector organization.

The Ministry initiated legal action to have Mr. Wills' legal bills assessed and to recover his assets. With LAO, it continues to actively evaluate the effectiveness of the new protocol to ensure the careful and effective expenditure of public funds whenever a court orders publicly funded counsel. In response to the Ombudsman's recommendation for legislation regarding transferring assets in order to qualify for legal aid, the Ministry advised that it would evaluate the need for this based on the progress of the LAO protocol and its ongoing litigation with Mr. Wills.

In February 2010, the Ontario Court of Appeal dismissed Mr. Wills' application for legal aid to allow him to appeal his murder conviction.

Collateral Damage – Mental health services for soldiers' children

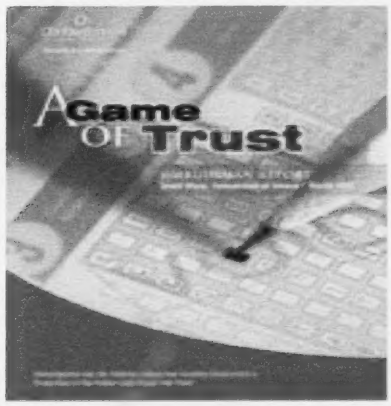
Since the Ombudsman's March 2007 investigation into the provision of mental health services for children of military members based at Canadian Forces Base Petawawa, SORT investigators have continued to monitor the situation. In 2007, the Ombudsman found that the number of soldiers' children in need of counselling services had grown tenfold as a result of the ongoing military mission in Afghanistan. Due to a lack of resources, these children were waiting up to six months for treatment at the local children's mental health provider, the Phoenix Centre for Children and Families.

In response to the Ombudsman's recommendations, the provincial government provided the Phoenix Centre with immediate funding and created a $2-million contingency fund to provide children's mental health support to communities facing crisis or extraordinary circumstances. The Minister of National Defence also confirmed the federal government was open to further discussions with the province to ensure that the mental health needs of CFB Petawawa's

children were met. The Ombudsman did not publish a formal report because the issue was resolved. The Phoenix Centre has been able to hire more staff and meet the ongoing demand for services in subsequent years.

The Ministry continues to provide the Ombudsman with regular updates on the status of military families awaiting services from the Phoenix Centre, and SORT staff also make regular contact with the Phoenix Centre and the base.

During the past year, an average of **103** military clients have received services each month, while **23** have waited for family and child therapy and four waited for group services – however, wait times are no longer than 4-6 weeks. The Ombudsman has applauded the Ministry's willingness to work with the federal government on this issue and will continue to monitor developments.



A Game of Trust – Ontario Lottery and Gaming Corporation

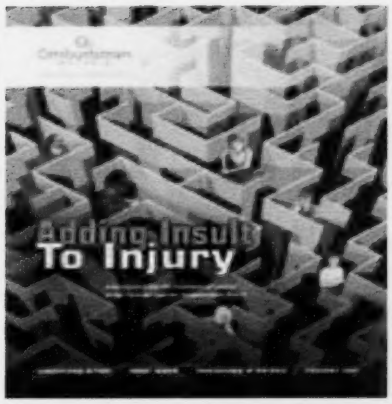
The Ombudsman's investigation of the Ontario Lottery and Gaming Corporation (OLG), detailed in the March 2007 report *A Game of Trust*, resulted in dramatic changes to the lottery system. The Ombudsman's recommendations – stressing the need for the OLG to return to its role as a public servant and change its culture to protect the public from theft and fraud perpetrated by retailers – have all been implemented.

In the spirit of accountability, however, the OLG pursued some of the recommendations further. In February 2009, for example, it released the results of a private audit that indicated "insiders" (mostly ticket retailers) had claimed almost $200 million in lottery prizes since 1995 – nearly twice what OLG had originally estimated. The Ombudsman was concerned that this indicated that theft and fraud could still be a problem within the system, and he gave OLG six months to show it had addressed the issue. Otherwise, he said he would consider recommending that retailers be restricted from playing lotteries.

In September 2009, the OLG announced it was banning retailers from purchasing lottery tickets in their own stores, effective November 2009. The initiative was supported by the Ontario Convenience Stores Association.

The Ombudsman welcomed this development, noting that the OLG deserved kudos for the proactive way it had embraced and implemented his recommendations.

> "We nudged the OLG forward on this issue and I'm pleased to see that the government has stepped in and made the right decision."
>
> Ontario Ombudsman André Marin, as quoted by The Canadian Press, September 14, 2009



Adding Insult to Injury – Criminal Injuries Compensation Board

The Ombudsman continues to monitor the implementation of the recommendations he made in his February 2007 report, *Adding Insult to Injury*, to ensure that victims of violent crime and their families receive timely and appropriate services from the Criminal Injuries Compensation Board (CICB).

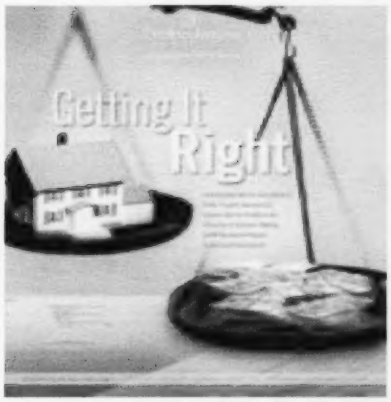
According to statistics provided to our Office by the board, its once almost insurmountable caseload continues to shrink, thanks to an influx of funding and staff in the years since the Ombudsman's report. As of March 31, 2010, the CICB's caseload stood at 5,916, down from 6,650 in January 2009, 8,290 in November 2007 and 9,640 in July 2006. It received an average 336 claims per month in the 2009-2010 fiscal year, about the same as last year (334 cases per month), but it is completing more cases per month – 296 on average, compared to 288 last year. The number of hearings held was down slightly – 3,792 in 2009-2010, compared to 3,859 last year.

The board has completed an upgrade to its case management system and the average processing time for claims, from start to finish, has improved since the Ombudsman's investigation, when it was **three years**. However, it has not changed since last year – it still takes almost **two years**, on average, for a claim to be processed. As well, the average time it takes for a claim to be assigned to an analyst actually increased this year – to 3.6 months from 2.7 months. Ombudsman investigators were advised that this was due to turnover of staff. The Ombudsman will continue to monitor the CICB's progress in reducing these delays.

In February 2010, the board released its first annual report since the Ombudsman's 2007 report. It also advised that the Ombudsman's recommendation that it create an advisory committee of victims, their advocates, and professionals dedicated to serving the needs of victims is still under consideration.

Complaints to the Ombudsman about the CICB have continued to fall, dropping from **192** in 2006-2007 to **50** this past year, about half of which were about delays and poor customer service.

> "Following receipt of the Ombudsman's report, the Board launched the first phase of a business transformation project designed to streamline claims processing and to address the large inventory of applications... Currently, average claims processing time from the date a victim files an application until she or he receives the Board's decision is 27 months. This compares to approximately 32 months for fiscal 2006-07, a reduction of 15%."
>
> — Criminal Injuries Compensation Board 2007-2009 report



Getting it Right – Municipal Property Assessment Corporation

Since the Ombudsman's investigation of MPAC and his 2006 report *Getting it Right*, senior MPAC staff have provided our Office with regular updates on their progress in implementing the Ombudsman's recommendations. The Ombudsman made **22** recommendations aimed at making the property tax system fairer and more transparent, and MPAC and the Ministry of Finance agreed to all of them. The government froze assessments for two years to allow implementation of these changes and most have been in place since assessments resumed in 2008.

MPAC staff recently responded to the Ombudsman's recommendation that property assessment notices be amended to describe not only the average municipal assessment increase or decrease, but also the average percentage change within the property owner's particular neighbourhood zone. MPAC noted that this has been challenging, since property owners and municipalities may have different concepts of what their "neighbourhood" encompasses. It has used its About My Property web portal to enable property owners to find assessment details for up to 24 comparable properties in their neighbourhood; meanwhile, MPAC committed to continue to fine-tune the availability of "neighbourhood zone" information based on customer feedback. While the Ombudsman agreed that these steps did in principle meet the spirit of the recommendation, he advised MPAC that his office would continue to closely monitor any complaints related to this issue.

> "We respect the Ombudsman's work, we acted on his recommendations and we believe that the municipal governments have the tools necessary to ensure an orderly transition."
>
> —Jim Watson, Minister of Municipal Affairs and Housing, *Hansard*, October 15, 2009

Between A Rock and A Hard Place – Children with special needs

In early 2009, the Ombudsman sounded the alarm about a new surge in complaints from families who were once again being forced to turn to children's aid societies in order to obtain residential treatment and services for their children's severe special needs. This same issue was the subject of the Ombudsman's 2005 SORT report, *Between a Rock and a Hard Place*.

The Ombudsman met with the Minister of Children and Youth Services, who confirmed the Ministry's commitment to ensuring adequate resources so that no family is forced into such a position. The Ombudsman expressed concern, however, that an early warning system was needed to allow the Ministry to identify serious cases and work more closely with local service co-ordination agencies. He suggested better monitoring mechanisms to improve officials' awareness of waiting lists and budgetary constraints at the local level.

During the 2009-2010 fiscal year, our Office received **39** complaints relating to services and treatment for children with special needs, after receiving **24** in 2008-2009. Ombudsman staff continue to closely review all complaints and, where warranted, work with senior Ministry officials and service co-ordination agencies to ensure that families receive the services they need without having to give up custody rights. Here are some details of a few of the cases we have handled in connection with this issue:

- The mother of a 13-year-old boy with mental health issues was referred to the Ombudsman by a support group for parents when her son's behaviour became so violent and aggressive that she felt she could no longer care for him at home. At the suggestion of her son's psychiatrist, she had contacted the local children's aid society (CAS) and entered into a temporary care agreement – but she did not want to lose permanent custody. Ombudsman staff contacted a manager at the local service co-ordination agency, who acknowledged that the CAS had become involved in response to an "urgent" situation. The boy has since been placed in treatment in an intensive residential program and the temporary care agreement with the CAS was terminated.
- The mother of a 12-year-old girl who has complex special needs told our office she urgently needed a residential placement because the girl was becoming increasingly violent. The local CAS had informed her that this was putting her other children, aged 2 and 4, at risk. The mother feared she would have to surrender custody of her daughter to the CAS if a residential placement was not found. The CAS initially placed the girl in a group home on an emergency basis and Ombudsman staff, the Ministry's regional program manager and a local service co-ordination agency worked together to secure interim funding to allow the girl's placement to continue, without the mother having to give up her custody rights. A longer-term funding proposal and plan of care have since been approved by the Ministry.

Our Office also intervened in several other cases where children with severe special needs were in short-term placements or assessment facilities and their families had come up against brick walls in their attempts to procure suitable long-term arrangements for them. In each case, Ombudsman staff worked closely with local service co-ordination agencies and Ministry staff to find long-term solutions.

The Ombudsman also received complaints from parents of babies with severe medical problems. These families reported that the available local health services were woefully inadequate for their children's needs, and local service co-ordination agencies felt they were unable to assist because the children's needs were largely medical.

These desperate families had apparently fallen through the cracks between the Ministry of Health and Long-Term Care and the Ministry of Children and Youth Services. Ombudsman staff worked with both Ministries, as well as Community Care Access Centres, to resolve each case. Officials agreed there was a need for better communication between ministries to help these families. For example:

- One couple was struggling to care for an infant girl who suffered severe complications as a result of oxygen deprivation during birth and required constant care and monitoring. The local Community Care Access Centre (CCAC) provided some nursing care, but the family still struggled to cope with the baby's needs. They applied for funding through the Special Services at Home program operated by the Ministry of Children and Youth Services (MCYS), but were told no new funding was available and there was a long waiting list. Local hospital officials suggested that the family give up custody of the baby to the local CAS. MCYS officials told Ombudsman staff they could not help because the baby's needs were mostly medical, and referred the family to the Health ministry instead. Our Office persisted and ultimately the local service co-ordination agency assisted the family in its dealings with the CCAC and ensured they could access all available community services. An agreement was also reached to provide in-home care for the baby when her mother returned to work.

- The mother of a 7-month-old boy who had undergone three heart surgeries and was facing at least two more was having trouble getting enough nursing care for the boy through her local CCAC. She felt she could not meet the boy's needs at home and tried to find a place where he could get 24-hour care for, among other things, cerebral palsy and Williams syndrome. A hospital social worker told the mother to contact her local CAS for help, but the CAS informed her she would have to surrender custody of her child. The MCYS local service co-ordination agency could not help either, although a Ministry director offered her and her family a temporary 21-day respite care arrangement. After Ombudsman staff contacted all of the officials involved, the Ministry agreed to fund placement of the child at a residential care facility selected by the family, and the local service co-ordination agency reached a voluntary agreement with the family to help them manage available funding and services for the boy.
- A single mother of four children, ranging in age from 12 months to 7 years, was referred to the Ombudsman by the Office of the Provincial Advocate for Children and Youth, after her 2-year-old son, who suffered from numerous health problems, had a tracheotomy. The boy required complex medical care and 24-hour monitoring, and his mother feared that the amount of home nursing care provided by the local CCAC would be inadequate. The hospital asked the local CAS if it would take the boy into foster care, but it would not, noting that the child needed medical help, not protection. Ombudsman staff found there were no clear lines of communication between the Health and Child and Youth Services ministries and no easy way of co-ordinating services. We worked with staff from both ministries, the local service co-ordination agency, the Local Heath Integration Network and the CCAC, to arrange increased nursing hours, daycare services, transportation to medical appointments and training for family members, all to assist the mother without forcing her to turn the boy over to foster care.

"Why are parents still being put through this? Why are these kids getting the necessary help only after a crisis point has been reached? ... Marin rightly calls this an 'appalling situation'... Once was too much. Twice is unconscionable."

Toronto Star editorial, June 29, 2009

Open Meeting Law Enforcement Team (OMLET)

In accordance with the *Municipal Act, 2001*, with a few narrow exceptions, municipalities in Ontario must conduct their council and committee meetings in public. Since January 1, 2008, members of the public have had the opportunity to complain about any municipal meeting they think may have been improperly closed. The Ombudsman investigates these complaints in all municipalities except those that have appointed their own investigators.

For the past two years, the Ombudsman's **O**pen **M**eeting **L**aw **E**nforcement **T**eam (OMLET), has acted as a dedicated resource for reviewing and investigating closed meeting complaints, as well as educating the public and municipalities about open meeting requirements.

This year, we received **68** cases relating to municipal meetings. Of these, **46** came within the Ombudsman's authority, while **22** were referred to municipally appointed investigators.

Our experience to date has been that many of the irregularities we encounter relating to closed meetings arise because of lack of familiarity on the part of municipal officials with the provisions of the *Municipal Act*. We continue to pursue opportunities to speak to the public and municipalities throughout the province to educate them about the "Sunshine Law," as it is often called.

In October 2009, we published and distributed a second edition of our *Sunshine Law Handbook*. The Handbook reflects the findings of the investigations that have been carried out by our Office, as well as interpretations of the law and municipal best practices that have emerged since the Sunshine Law first came into effect. The pocket-sized guide includes frequently asked questions, tips for municipal officials and would-be complainants, and excerpts from relevant legislation for easy reference. About **9,000** copies of the Handbook were distributed free of charge to every municipal councillor, clerk and hundreds of municipal officials across Ontario, regardless of whether they use the Ombudsman as their investigator. The Handbook is also available to the public and can be found on our website.[4]

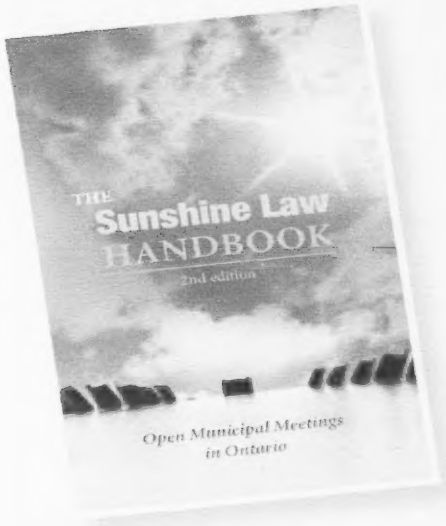
Sarnia Mayor Mike Bradley, left, receives the new Sunshine Law Handbook *from Ontario Ombudsman André Marin in October 2009.*

[4] The Sunshine Law Handbook can be obtained from our office or viewed and downloaded here: http://www.ombudsman.on.ca/en/publications-resources/the-sunshine-law-handbook.aspx

The Ombudsman is the investigator for closed meeting complaints in **198** of Ontario's 444 municipalities. When the Sunshine Law was first enacted, many municipal officials expressed concern that municipal business would be hijacked by a flurry of vexatious complaints. Rumours were also spread in municipal circles that the Ombudsman's Office would interfere in municipal affairs, lacked the expertise necessary to investigate issues at the municipal level and that its investigations would be time-consuming and costly. All of these suggestions were false, and in fact, experience has demonstrated just the opposite: in fact, experience has demonstrated just the opposite: The overall number of complaints has declined; most of those received by our Office are closed without formal investigation; and our services reflect our 35 years of expertise in conducting fair and effective administrative investigations. Moreover, the Ombudsman's Office does not have and has never had authority to investigate municipal affairs other than closed meetings, and it does not and has never charged fees. Several municipalities that had initially chosen to hire their own closed meeting investigators decided in 2009-2010 to use the service of our office instead – **13** in all.

OMLET completed **4** closed meeting investigations in 2009-2010. These included the municipalities of Kearney and St. Catharines (summaries follow) and two others in which the Ombudsman's reports were still pending at the time this report was written. All other cases were resolved without formal investigation.

In addition to making recommendations regarding compliance with the legal requirements relating to open meetings, our Office also encourages municipalities to adopt what we consider to be best practices. Most of the municipal officials we dealt with were extremely co-operative and eager to ensure that their closed meeting practices were consistent with the law.



The Ombudsman's formal reports on OMLET's investigations are all available through the individual municipalities and on our website (under What We Do – Municipal Matters).[5] In cases where a complaint is resolved without the need for a formal report, the Ombudsman encourages municipalities to inform citizens of the results of the Ombudsman's review.

What follows are details of some of the key cases handled by OMLET in 2009-2010 – all of which were resolved informally without a published report.

[5] The Municipal Matters section of our website is located here: http://www.ombudsman.on.ca/en/what-we-do/municipal-matters.aspx

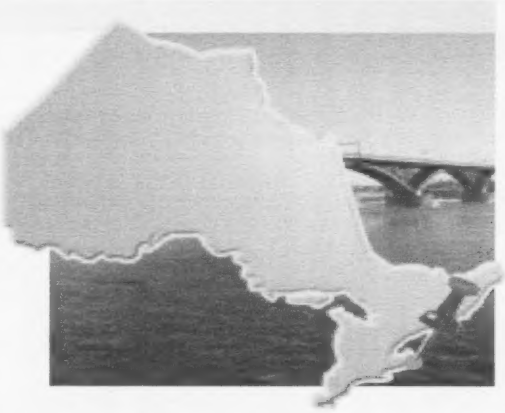
Selected OMLET Cases Completed in 2009-2010

Regional Municipality of Niagara

We received two complaints concerning a closed session held by the Regional Council of Niagara on July 24, 2008, during which council discussed the appointment of representatives to a public liaison committee. OMLET investigators reviewed these concerns without launching a formal investigation. We determined that the council was entitled to discuss the candidates for the committee positions in closed session, under the *Municipal Act* exception relating to "personal information about an identifiable individual." However, our Office took the opportunity to make some suggestions for changes to Niagara Region's meeting practices, including that the municipality adopt a more open process for considering appointments to public committees.

The regional council did not agree to change its public appointment process, referring to a concern with striking a balance between a fully public process and the expectations of confidentiality that candidates for other public positions enjoy. However, it did commit to adopting a number of improvements. It undertook to ensure that resolutions authorizing closed sessions would be consistent with its meeting agendas and accurately describe the subject matter to be discussed. It also restated a previous commitment that it would only discuss issues in closed session that have been specifically identified in the resolution authorizing a closed meeting. In addition, the regional council instructed staff to ensure that the minutes of closed sessions provide an understanding of the general nature of what occurred during the session. The municipality publicly tabled correspondence relating to the Ombudsman's review.

Town of Fort Erie



We received a complaint about a closed session held by Fort Erie council on February 2, 2009, at which solicitor-client advice and a proposed purchase of property were discussed. Our preliminary review of this matter disclosed that most of the discussion came within the identified exceptions to the Sunshine Law. However, it appeared that council went on to consider related topics during the closed session.

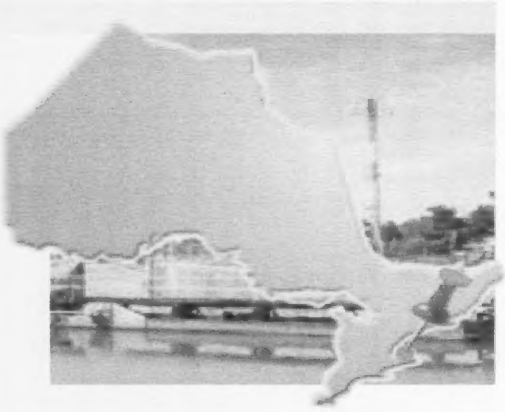
While acknowledging that the issue under consideration by council was of long standing and relatively complex, our Office suggested that council keep in mind that the exceptions to the Sunshine Law are intended to be narrowly construed. We encouraged all members of council to exercise discipline and control to ensure that they limit discussion in closed session to matters clearly identified in the resolution authorizing the meeting and reserve other topics for consideration in open session when appropriate.

Our Office also observed that the official minutes for the closed session were sparse, and expressed concerns about a "straw poll" conducted during the closed meeting. The *Municipal Act* provides that, except in limited circumstances, voting cannot take place in a

closed meeting. Our Office considers this prohibition to extend to informal voting. While we eventually determined that the "straw poll" in this case related to a procedural matter, which is acceptable in closed session, this was not initially apparent as a result of the limited record kept of the proceeding.

Town officials expressed general agreement with our observations and undertook to share them with council. We were also advised that in addition to an official summary of closed meeting decisions and actions that is made publicly available, the town would develop a new practice of keeping a more detailed confidential record of closed meetings.

City of St. Catharines



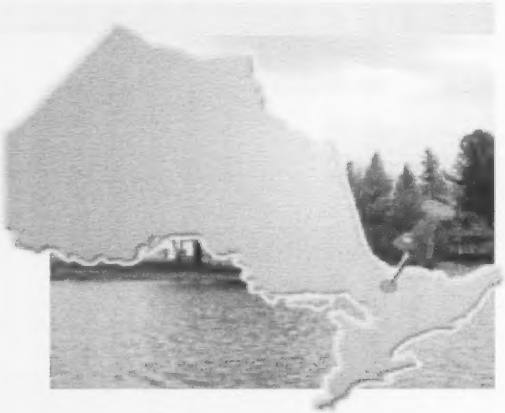
We initiated a formal OMLET investigation into a complaintthat St. Catharines city council had met inappropriately behind closed doors on June 22, 2009. Our investigation confirmed that the meeting was held to consider disposition of municipal property, a subject that may be discussed in closed session – therefore, the Ombudsman did not issue a formal report. However, we were concerned about the municipality's failure to keep minutes of its closed meetings.

The *Municipal Act* requires that municipalities record all resolutions, decisions and other proceedings at a meeting, whether it is closed to the public or not. There are many different interpretations of this requirement, and we have found that the record-keeping practices of municipalities vary significantly across the province.

The Act does not require a verbatim meeting record. However, consistent with the principles of openness, transparency and accountability, the Ombudsman considers that a record of "proceedings at a meeting" includes, at least, reference to the various items that were discussed as well as the nature of the discussion. We advised the city of this and strongly encouraged it to keep more detailed records of its closed meetings.

Initially, council rejected this suggestion. However, after further discussion with our Office, council unanimously voted to provide more detail in its meeting minutes.

Town of Kearney

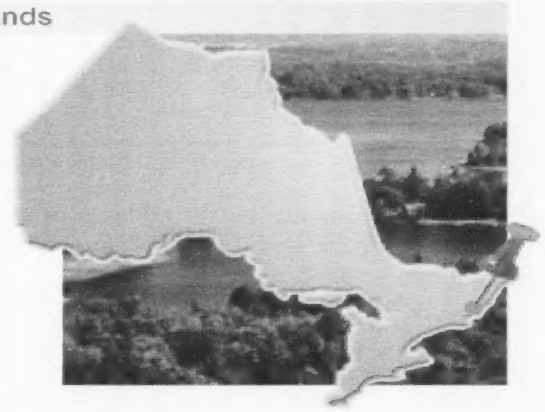


Another OMLET investigation involved a complaint that Kearney council had improperly held a closed meeting before its regular public meeting on June 26, 2008. Our investigation found that the public was given no advance notice regarding the issues to be considered in the closed session, and many items were added at the last minute. The resolution authorizing the closed session was also generic and no members of the public were present when it was made. While much of the discussion during the closed session could technically be characterized as involving personal matters – i.e., coming within one of the exceptions to the Sunshine Law – the topics considered by council were wide-ranging.

Our investigation determined that the council had been at a significant disadvantage when the meeting had taken place, since it had been without a clerk to assist it with proper procedure. Rather than issue a formal report, we discussed our findings with municipal officials, and made suggestions about how the town could improve its meeting practices. The municipality made this information available to the public.

The council agreed to make a number of changes to better reflect best practices for closed meetings, including publicly posting a closed session agenda and prohibiting additions to it except in cases of urgency. It also changed the timing of the closed portion of its meetings to ensure that the public is present when resolutions authorizing closed sessions are read. The council also committed to clearly and publicly identify the matters to be discussed in a closed session.

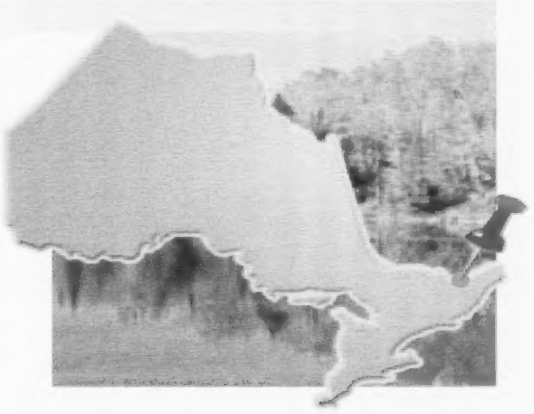
Township of Leeds and the Thousand Islands



We conducted a preliminary review of a number of complaints regarding closed meetings held by the Leeds and the Thousand Islands council in 2009. OMLET investigators determined that at these meetings, council discussed a number of items relating to "personal matters about an identifiable individual," a permitted issue for consideration in a closed session. However, we suggested that the township provide greater detail with respect to closed meeting agendas and resolutions, and ensure that discussions during closed sessions remained focused on permissible topics. We also encouraged the municipality to prepare more detailed meeting minutes.

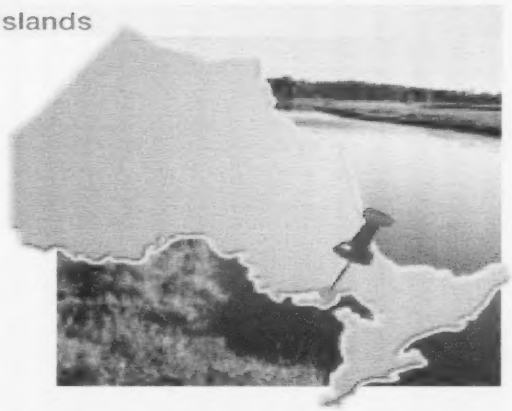
One of the complaints related to a "joint public meeting" held with another township on June 15, 2009. While the other municipality had provided public notice of the meeting, Leeds and the Thousand Islands had not. We noted that in such circumstances, both municipalities have an obligation to provide notice, record the proceedings and otherwise comply with the *Municipal Act* and their respective procedure by-laws. Municipal officials indicated general agreement with our observations and undertook to share them with the rest of council.

City of Clarence-Rockland



A review of a complaint about a closed meeting held by Clarence-Rockland council on July 29, 2009 confirmed that it involved matters that could properly be discussed in the absence of the public. However, we noted that the closed portion of the meeting did not take place in the location specified by the city's procedure by-law. We also discovered that the by-law made no provision for notice of special meetings. After discussing our preliminary findings with the city, it agreed to revisit its procedure by-law. Our letter to the municipality was also made available to the public by the city.

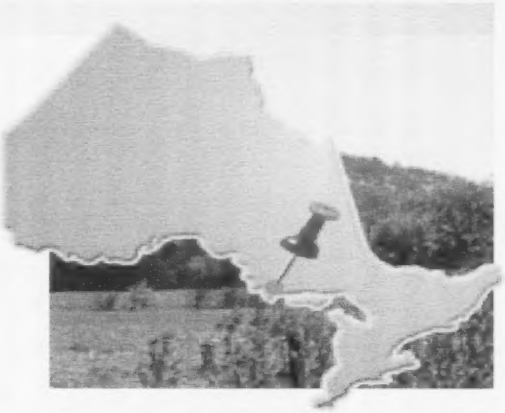
Town of Northeastern Manitoulin and the Islands



Closed meetings held by the Northeastern Manitoulin and the Islands town council in 2008 and 2009 prompted several complaints to our Office. OMLET investigators were able to close these cases after making informal suggestions to the town about best practices, including providing more detail about the items to be considered in closed session, avoiding last-minute additions to meeting agendas, keeping more detailed meeting minutes, ensuring closed session discussions do not veer off into other topics, and reporting about the sessions, at least in a general way, to the public.

We also considered an allegation that some councillors had held an improper closed meeting when they remained in chambers behind closed doors after the conclusion of a public council meeting. There was no indication that the councillors had deliberated on or furthered council business after the meeting; rather, it appeared they had stayed behind and engaged in an informal social exchange. Still, the incident, not surprisingly, gave rise to speculation that improper discussions had occurred. While it may be natural for some councillors to linger after a meeting to interact socially, we suggested that in future they ensure that the meeting room door always remains open after meetings. The Ombudsman's observations were discussed at a public meeting. Council accepted our suggestions and also advised that it would consider amending its procedure by-law to address these concerns.

Township of Plummer Additional



After the Plummer Additional township clerk was dismissed in March 2009, our Office received several complaints alleging that three councillors had held an improper closed meeting to discuss the termination. Several dramatic developments ensued amid public furor in the municipality, including the resignation of the three councillors, the reinstatement of the clerk, and a public call for a wide-ranging probe by the Ministry of Municipal Affairs and Housing. At the request of the township council and more than 200 ratepayers, the Ministry reviewed the township's procedures, personnel policies and financial records, among other things. The Ministry's report, released in February 2010, included a number of recommendations addressing the Township's conduct of meetings. Following receipt of the Ministry's report, the Township confirmed with our Office that it would improve its meeting processes. Under the circumstances, we were satisfied that the areas of concern relevant to our jurisdiction had been addressed by the Ministry's review and the township's commitments.

Township of Prince

OMLET investigators reviewed a complaint about a closed session conducted by the Prince township council on October 27, 2009, during which it met with its solicitor and another party. The council had indicated, prior to the closed session, that it would be addressing an issue relating to "litigation or potential litigation" in private, which is permitted by the Sunshine Law. However, we found that the municipal solicitor provided legal advice to council during the closed meeting – which is not the same thing as "litigation," the reason used to justify the closed session – and the discussion did not relate to any current or pending litigation. We also found that the other party at the meeting did not provide any information relating to litigation or potential litigation.

Our Office discussed the situation with municipal officials and suggested that, in future, council should carefully consider the exceptions set out in the *Municipal Act* to determine which, if any, applied to allow discussion of an issue in closed session. We also noted that the township's draft procedure by-law did not provide for public notice of special meetings, as required by the Act. The Township considered our advice and publicly tabled our correspondence.

Township of McKellar

OMLET investigators reviewed complaints about meetings held by the McKellar council between summer 2008 and fall 2009. While we did not issue a formal report, we raised a number of concerns with the municipality about its closed meeting practices.

For example, we found that during the closed portion of a special meeting on August 20, 2008, convened to consider "litigation or potential litigation," council had gone on to consider an issue that was not on the agenda, and which did not come within any of the Sunshine Law exceptions. We advised that in future, council should ensure that it only considers topics in closed session as permitted by the Act, and which have been clearly identified in advance in a public resolution authorizing the session.

We also considered two closed meetings held by the township's Public Advisory Committee in August and September 2009. Given the composition of the committee (all of council, the clerk and one public member), as well as its purpose (to advise on a land use planning study), we concluded that the committee had failed to comply with the Sunshine Law. However, as the committee had concluded its work and was unlikely to reconvene, we determined not to investigate further and instead suggested that council consider our observations in future.

After considering a complaint concerning another special meeting of council held on October 22, 2009, we found that while the township had provided notice of the meeting, its procedure by-law did not state such notice should be provided. We encouraged the municipality to address this.

Case Summaries

MINISTRY OF THE ATTORNEY GENERAL

Legal Aid Ontario

Discreditable conduct

A woman contacted the Ombudsman after learning that Legal Aid Ontario (LAO) had sent her file to a collection agency, accusing her of failing to pay an outstanding bill and affecting her credit rating. The bill stemmed from a contribution for legal services agreement she had signed in 2004, but she believed she had paid the bill in full in 2005, based on a statement Legal Aid provided to her.

An Ombudsman staff member reviewed her case with LAO staff. Legal Aid noted that it had paid two bills to the woman's lawyer in 2004 and 2005, for a total of **$1,851.61**. But the documents showed it had neglected to send one of the bills to the woman for her to pay her share of the fees. It had also failed to pursue the case until 2008 because she had moved; she did not provide LAO with her new address because she believed her dealings with them were finished. As a result of the Ombudsman's inquiries, Legal Aid provided the woman with a letter explaining the errors it had made on her account. It also apologized for the confusion, notified the collection agency and agreed to write off the outstanding balance.

Lien on me

A woman complained to the Ombudsman that Legal Aid Ontario sent her a bill dating back to 1991 for **$802.28** and advising her that a lien had been registered against her house for nonpayment. The woman did not recall signing any documents with LAO at any time, and said this was the first notification she had ever received from them.

Ombudsman staff asked LAO to review the file and it was unable to find any documents signed by the woman that would support the fees charged to her. LAO agreed to cancel her debt and sent her a letter to this effect. The woman was very relieved that she no longer had to worry about the bill or the lien on her home.

MINISTRY OF CHILDREN AND YOUTH SERVICES

Grandmother's helper

When their mother could not care for them, three children moved in with their grandmother so they would not have to be placed with the local children's aid society (CAS). The grandmother spent **$1,700** on school supplies, clothes and other items for the children. She complained to the Ombudsman that a CAS worker had told her she could be reimbursed for these expenses if she kept all her receipts – but when she attempted to get her money back, she was told she could only submit a few receipts at a time. Furthermore, a number of the receipts she submitted to the CAS were lost. Although the Ombudsman does not have the jurisdiction to investigate the CAS's handling of the expense claims, Ombudsman staff found out from the Ministry of Children and Youth Services that the grandmother should have been eligible for emergency start-up funds from the CAS under the Ministry's Ontario Permanency Funding Policy Guidelines. These provide for assistance for family members who take over care of a child who would otherwise be admitted into CAS care. The grandmother was provided with information on how to file a complaint, and ultimately the CAS agreed to fully reimburse her for the money she spent while caring for the children.

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

No place like home

A 28-year-old woman with mental health issues and a genetic disorder suffered from severe depression and post-traumatic stress after injuring herself in a group home. Her mother called the Ombudsman's Office for help in dealing with the Ministry of Community and Social Services, which she claimed had promised it would support her with "whatever it takes" to care for her daughter at home.

The mother complained that her emails to the Ministry requesting financial assistance for therapy for her daughter were not being answered, nor had the Ministry responded adequately to her complaints about the daughter's former group home. After being contacted by the Ombudsman's Office, Ministry officials acknowledged that the mother's emails were not responded to because of an oversight on their part. Arrangements were made to provide funding for the daughter's therapy and reimburse the family for the money it had already spent. The Ministry also agreed to provide the family with a letter documenting the actions that were taken in response to their complaints about the group home.

The family was pleased to receive this acknowledgement and advised our Office that they have been reimbursed **$2,550** by the Ministry. They also informed the Ombudsman that the daughter is making excellent use of the therapy funded by the Ministry and has been doing well since her return home.

Family Responsibility Office

Show me the money

A woman complained to the Ombudsman that the Family Responsibility Office (FRO), would not release a support payment of $1,200 that her ex-husband had made, even though she was owed almost $7,000. FRO's explanation was that the man had filed for bankruptcy protection, meaning it was only allowed to collect ongoing support, not arrears. FRO staff confirmed that they were holding $1,200 in payments the man had made while he was under bankruptcy protection.

Ombudsman staff asked FRO to reconsider the matter and it ultimately agreed that the ex-husband could make an additional voluntary payment to pay off the support arrears, even though he had not been discharged from bankruptcy – and it released the **$1,200** to the woman.

Costly mistake

A man complained to the Ombudsman that FRO was not enforcing a June 2005 court order directing his ex-wife to pay $1,079 per month for their two children. He was owed more than $30,000. When the man complained to FRO that he had received no support for years, he was told the ex-wife's obligations had been suspended as a result of a September 2005 court order stemming from a motion she had filed.

Ombudsman staff determined that FRO had made an error in the application of a condition in that court order, and incorrectly stopped enforcing the order against the ex-wife. FRO reviewed the file at our request and acknowledged its error, along with several missed opportunities to collect support payments in the case.

Resuming its enforcement, FRO reached an agreement with the ex-wife to pay the arrears at **$800** per month, in addition to the required monthly support. FRO also apologized to the man and provided him with the contact information for the enforcement officer assigned to his case, should he encounter any problems in the future.

Reversal of fortune

A man complained to the Ombudsman that FRO was demanding he arrange payment of some $12,500 in support arrears, despite a court order that stayed the collection of those arrears. FRO had suspended his driver's licence when he refused to pay, so he had voluntarily paid $5,000 to get it back, and had started paying $100 a month.

Ombudsman staff contacted FRO, whose review of the court order confirmed that it was wrong to demand payment from the man. It agreed to refund him **$9,150**, including the fees he had paid to reinstate his driver's licence.

Too little, too late

In early June 2008, a woman called FRO to complain that she had not received support payments from her ex-husband for six months. FRO staff started the process to obtain a Writ of Seizure and Sale – a standard enforcement tool that prevents someone who is in arrears in support from selling any assets until the support is paid.

The woman called FRO again in July and in August, warning them that her ex was selling his home. No writ was filed. By December 2008, still unable to obtain an answer from FRO, the woman called the Ombudsman's Office. Prompted by Ombudsman staff, FRO looked into the case and discovered that a writ had finally been filed in September, but it was too late – the man's house had already been sold under power of sale. FRO had also missed a chance to place a lien on the property.

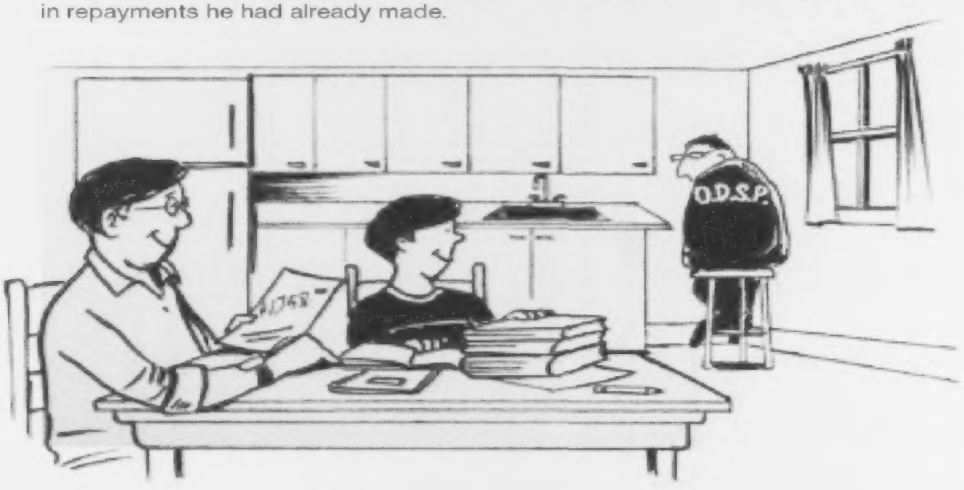
Ultimately, FRO was able to notify the mortgage holder of the arrears and the woman and her ex were able to negotiate payment of the more than $26,000 owed - $14,975 of which went to her – as well as regular future monthly payments.

Ontario Disability Support Program

Lessons learned

A disabled dad was receiving monthly income support from the Ontario Disability Support Program (ODSP). His cognitively impaired son, whom he had been home-schooling since 2005, lived with him. In April 2008, the father was advised by ODSP that his son could not be considered a dependent for the period from January 2005 to May 2006, because it had not received written confirmation that the youth was registered as a home-schooled student with the local school board. ODSP calculated that this meant the man had been overpaid by $4,847.39, and told him he would have to repay this amount through monthly deductions from his future ODSP benefits.

Frustrated and in dire financial straits, the father called the Ombudsman's Office for assistance. He said ODSP was well aware that his son's disability prevented him from attending a regular school, and he had given the proper written notice that he was being home-schooled in November 2005. An Ombudsman staff member asked ODSP to review the file and it confirmed the man had in fact provided notice of the home-schooling. With this error resolved, ODSP refunded the man **$1,758.68** in repayments he had already made.



A roof over her head

A woman suffering from brain damage and memory loss complained to the Ombudsman that she was about to be cut off ODSP and would be evicted if she could not pay her rent. She was also struggling because her mother was hospitalized and expected to die.

Her case worker had told her that ODSP was ending her funding for rent because she had not provided proof of residence. Ombudsman staff determined that the woman had recently moved because of a bedbug infestation, but had provided ODSP with documents to prove her residence – however, she was not at home when the caseworker contacted her there because she was spending so much time with her mother in hospital, and sometimes stayed with a friend who could drive her there and back.

Our Office spoke to the case worker and a regional manager for ODSP, who arranged to transfer the ODSP rent payments directly to the woman's landlord. The manager also arranged for bus tickets to allow the woman to visit her mother in hospital and to pick up her basic needs cheques from ODSP offices.

MINISTRY OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES

Corrections correction

A correctional centre inmate complained to the Ombudsman about an error in the paperwork recording the amount of time he was supposed to serve in jail. He said he was sentenced to serve 80 days, but the warrant of committal accompanying him to the jail erroneously stated it as 180 days. A new court order had even been made to correct the error, but the staff at the facility he was in did not appear to know about the change. He was anxious to ensure that the error was corrected, as his 80-day sentence was set to expire in three days. Ombudsman staff contacted the records department at the jail to ensure that the error was corrected and confirmed that the inmate would be released on the right date.

Free at last? Not so fast

A man who had been in jail awaiting trial for 5½ months had his trial date moved up eight days – from June 12 to June 4. On the day of the trial, the charges against him were dismissed. Expecting to walk out of the courthouse a free man, as he was entitled to do, he was shocked to be transported back to jail, where he was told he would have to serve another eight days.

The man immediately called the Ombudsman's Office, and our staff contacted the clerk of records at the jail. The clerk confirmed that the man's court papers had not been updated to reflect the earlier trial date and he was released, to his great relief.

MINISTRY OF FINANCE: ASSESSMENT REVIEW BOARD

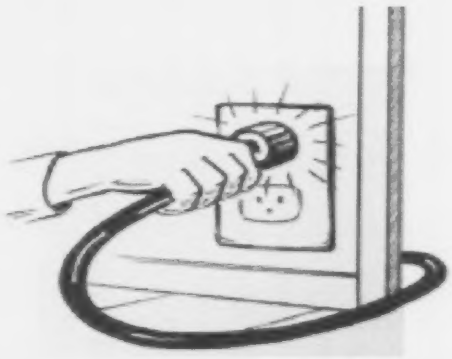
Just the fax

In July 2009, an MPP's office filed a complaint with the Ombudsman on behalf of a constituent who disagreed with her 2006 property assessment from MPAC and who had filed an appeal in June 2006 with the Assessment Review Board (ARB). When the constituent did not hear anything back, she contacted the ARB, which said it could not find any record of her appeal being received within the necessary time frame and therefore her appeal could not be heard. Ombudsman staff provided the ARB with copies of the property owner's appeal and her fax confirmation sheet, proving that appeal had been filed on time. As a result of the Ombudsman's intervention, the ARB agreed to schedule a date so that the appeal could be heard.

MINISTRY OF ENERGY AND INFRASTRUCTURE

Hydro One

Powerful extension



A woman who was looking after her 81-year-old bedridden mother at home saw her Hydro One bill rise to $600 a month because her mother required the constant use of oxygen and ventilation machines. She was finding it difficult to pay the bills, as she had a limited income and the spousal support she had been receiving had been reduced, but she had recently reduced her hydro arrears to $1,300 from $4,400.

Despite this, Hydro One sent her a notice advising her that her power supply would be cut within 24 hours. The woman called her MPP and then the Ombudsman for urgent help, out of fear that her mother's life support would be turned off. An Ombudsman staff member contacted a senior official at Hydro One and explained the woman's circumstances. As a result, she was given an extra two weeks to pay her outstanding bills, which she managed to do with the assistance of family members.

Mind your business

A homeowner was surprised to receive a survey in the mail from Hydro One that was directed at commercial business owners. He discovered that before he purchased his home in 2003, it had been zoned as a business property, not residential – and ever since, Hydro One had continued to charge him commercial rates, which are higher than residential rates. The man asked Hydro One to reimburse him the money it overcharged, but it would only do so for 2009 – a total of $172.

After he contacted the Ombudsman, our Office asked Hydro One to reconsider the case, noting the man had been completely unaware that he had been overbilled for six years. Hydro One agreed to review the file again and ultimately reimbursed him retroactive to 2003 – a total of **$2,189.89**.

Thy neighbour's bill

A woman called Hydro One to set up an account as she and her husband moved into a new apartment. When no one from Hydro One arrived to turn on the electricity, the husband called Hydro One and had an account set up in his name. Three years later, the wife received a call from a collections agency, advising her that she had a large outstanding hydro bill.

It turned out the account on her bill was for the apartment next door. Unbeknownst to the couple, Hydro One had set up an account in the wife's name at the wrong apartment – and had been billing her for the neighbour's electricity since 2006. When the couple tried to explain the situation to Hydro One, they were told they would have to pay the outstanding bill and sue the neighbouring tenant to recover the costs.

An Ombudsman staff member contacted Hydro One on the couple's behalf and provided proof that the wife had never lived in the apartment she was mistakenly billed for. Hydro One acknowledged its error and called off the collection agency.

MINISTRY OF HEALTH AND LONG-TERM CARE

Bridging the gap

The father of a 15-year-old boy with severe special needs, including Asperger's Syndrome, attention deficit hyperactive disorder and anxiety disorder, contacted the Ombudsman for help in paying for the boy's medication. The boy had been discharged from a residential care facility with only a 10-day supply of the medication and his father could not afford to pay for it, as he was unable to work due to a disability. He was awaiting assistance from the Ontario Disability Support Program and Ontario Drug Program.

Our Office explained the urgency of the situation to the Ministry of Children and Youth Services, which had arranged the boy's placement in the residential facility where he had been receiving the drugs. It arranged to cover the cost of the medication for another two weeks – at a cost of **$235** – to allow time for the family's application for coverage under the Ontario Drug Program to be approved.

Seventh heaven

A single mother of six who was one month away from delivering her seventh child contacted the Ombudsman after her family's Ontario Health Insurance Plan (OHIP) coverage was revoked because they had been out of the country for too long. The mother claimed that they had returned to Canada in August 2008. She had provided documents to Service Ontario showing she had been at the same Ontario address since January 2009 and that her children had attended school in Ontario for the 2008-2009 school year, but the agency said this was not sufficient. Ombudsman staff asked the Ministry of Health and Long-Term Care to consider an appeal of the woman's request on an expedited basis. After reviewing the case, the Ministry agreed to immediately reinstate the children's OHIP coverage and the mother's coverage was reinstated a few days later – in time for the birth of baby No. 7.

Double trouble

A woman was sent to the United States to give birth to twins, due to a lack of space at her local hospital. The babies were born prematurely and required extensive medical care.

The mother was told the babies would be given OHIP coverage for one year, but she would have to obtain Canadian citizenship for them because they were born in the U.S. She then learned the citizenship application would not likely be processed before the OHIP coverage ran out.

The mother turned to the Ombudsman for help in asking OHIP to extend the babies' coverage. After our Office intervened, OHIP gave the twins another six months' coverage to allow enough time for their citizenship application to be processed.

Chequing in

A diabetic senior who lives alone on a fixed income contacted the Ombudsman when her reimbursement cheque for the cost of her insulin needles failed to arrive from the Ministry of Health and Long-Term Care's Assistive Devices Program. The Ministry had told her she simply would not be getting any money, with no explanation. An Ombudsman staff member contacted a Senior Program Co-ordinator at the Ministry, who determined that an error had been made, and a cheque for **$170** was sent to the woman on a priority basis.

MINISTRY OF TRAINING, COLLEGES AND UNIVERSITIES

About time

A science and nursing student at a community college complained to the Ombudsman that she was being charged the same tuition fees as a full-time student, even though she was only taking two courses, or less than half the normal load. She explained that she had dropped out of a few courses the previous year due to illness and had re-enrolled as a part-time student. When the college insisted it was basing its charges on a fee structure set by the Ministry of Training, Colleges and Universities, Ombudsman staff approached the Ministry, which confirmed that part-time students should not be charged the same as full-time students. The Ministry contacted the college, which agreed to reimburse the student for **$1,355.49** in tuition fees.

Skills to pay the bills

A woman who had been laid off from her job was approved for the Ministry of Training, Colleges and Universities' Ontario Skills Development program, which covers school and living costs to retrain workers. Two months after she began studying business administration at a private career college, the college closed its doors. The Ministry told the students they could continue their training at another college, but when the woman agreed to this, she was told she would receive only $203 per week for living expenses – less than half of what she had been getting while attending the first college.

On the woman's behalf, Ombudsman staff contacted a regional director at the Ministry, who reviewed her file and confirmed an error had been made. The Ministry agreed to honour the living expenses provided under the woman's first contract.

Saved by the bell

A woman who lost her job and then her house due to a workplace shutdown applied to a college of applied arts and technology. Living at her mother's home with two children to support, she also applied to the Ministry of Training, Colleges and Universities' Second Career program for financial assistance. Her college course was due to begin on September 8, 2009, but she had heard nothing from Second Career by September 3. She complained to the Ombudsman, concerned that school was about to start and she had no income source.

Ombudsman staff immediately spoke with the Ministry's regional manager, who noted there had been a substantial increase in Second Career applications. On the eve of the Labour Day long weekend, with colleges due to start class the next week, it still had 120 files to process. Ministry staff said they would work through the weekend to ensure that all applications were processed. The woman was informed by the Ministry at 8:30 a.m. on September 8 that hers had been accepted, and she sent a message to the Ombudsman expressing "many, many thanks!"

The apprentice

A 23-year-old unemployed man who was in the Ministry of Training, Colleges and Universities' apprenticeship program attended a Ministry-approved training course for two months in January 2008. He met eligibility criteria for the Ministry's Ontario Skills Development Benefit, a program that provides financial assistance for apprentices who do not qualify for Employment Insurance (EI) during the classroom portion of their program. However, during the course, he did not know whether or not he qualified for EI – its decision, which was negative, did not arrive until after the course ended. At that point, the Ministry informed him it would not pay Ontario Skills Development Benefits retroactively.

Throughout the course, the man had no income and had to borrow from family members to cover his living expenses and his daily three-hour commute to class. He complained to the Ministry and his MPP. He complained to the Ombudsman in May 2009, and our staff reviewed the Ontario Skills Development Benefit policy. We pointed out to the Ministry that the policy did not contain any reference to retroactivity of benefits. As a result, the Ministry reversed its position and paid the man **$2,125**, more than a year and a half after he became entitled to the benefits.

Ontario Student Assistance Program

A burden eased

The mother of a young woman who was dying of cancer complained to the Ombudsman in May 2009 about delays in her daughter's Medical Loan Forgiveness Application to the Ontario Student Assistance Program (OSAP), which was submitted in January 2009. Her daughter, who had two children of her own, hoped to have her student loans forgiven before her death, to spare any financial repercussions for her family. After an Ombudsman staff member contacted OSAP, an official there confirmed that the loan forgiveness application was approved and OSAP would cease all collection of its $12,264 loan. With the daughter's consent, we also confirmed with the Canada Student Loan Centre that its outstanding $9,000 loans would be deemed uncollectible.

A hair-raising inequity

A 19-year-old woman submitted an online OSAP application and was provided with an estimate of the financial assistance she would receive if she were to study hairstyling at a community college. She then applied and was accepted into the program. Her parents also took out a line of credit, secured by their home, to help her pay rent and the first installment of her tuition before the loan arrived.

Just before she was due to start the course, she received notice that she was approved for OSAP assistance, but it was much less than the original estimate. She was told that unmarried students in hairstyling programs were only eligible for $210 per week of study, whereas unmarried students in all other approved programs were eligible for OSAP of up to $350 per week.

When the woman complained to the Ombudsman, our staff contacted the Ministry of Training, Colleges and Universities, which agreed to review the policy. As a result, the Ministry subsequently changed the policy to make hairstyling students eligible for the same amount of OSAP assistance as other students. As of August 1, 2009, single students have been eligible to receive up to of $350 per week of study, while those who are married or sole-support parents may receive up to $545 per week.

Although the Ministry did not make the change retroactive, the student was happy that future students would benefit from it, and reported that she had been able to obtain college bursaries to allow her to pursue her studies.

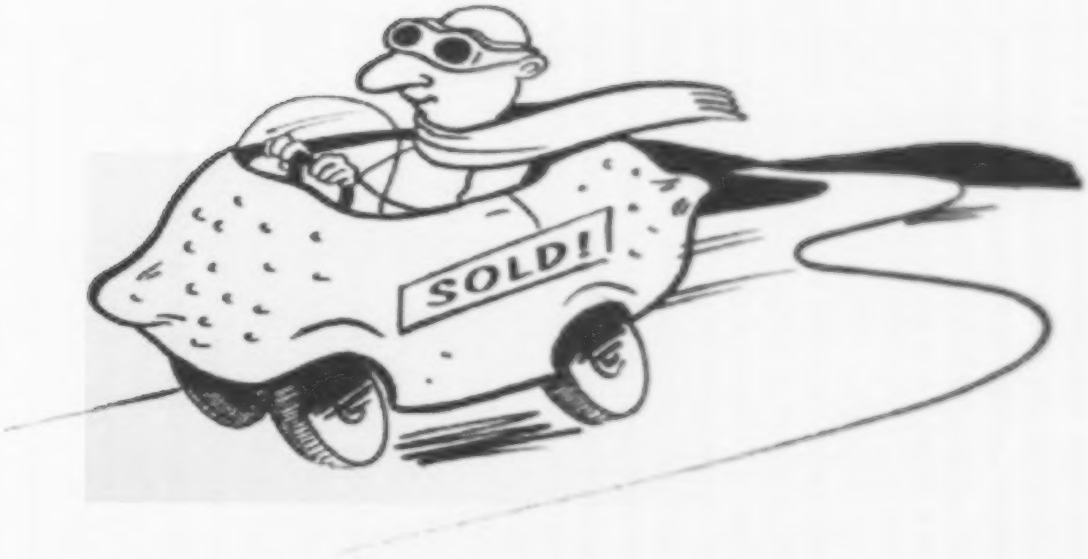
MINISTRY OF TRANSPORTATION

Your tax dollars at work

A woman complained to the Ombudsman that she had not received a claim cheque that the Ministry of Transportation had agreed to send her five weeks earlier. Her car had been damaged by construction work on a provincial highway.

When Ombudsman staff contacted Municipal and Highway Services at the Ministry of Transportation, the department head reviewed the woman's file and discovered the cheque had never been issued. Ten days later, the cheque for **$4,481.65** for the damage caused to the woman's car was sent out.

The complainant also raised a concern about a lack of information on the Ministry's website about how to file claims for this kind of damage. After Ombudsman staff spoke to the Ministry about this, the website was updated with more information about road liability claims, and how to contact the relevant department.



Buyer beware

A man who bought a used car from a private seller for $14,000 complained to the Ombudsman when he was unable to register it with the Ministry of Transportation. Before his purchase, he had obtained a Used Vehicle Information Package (UVIP) that did not identify any problems with the car. However, when he went to register it, he was advised that he could not do so because it had been suspended. Ministry staff referred him to their Branding Unit, which told him the car could not be registered because they were investigating its documentation and circumstances, as it was a car that had been brought into Canada from the U.S. Ministry staff believed that since the suspension pre-dated the issuance of the UVIP, it should have identified the car as not transferable for sale.

Ombudsman staff learned from the Ministry that the vehicle had been brought into the country under fraudulent documentation that failed to identify previous damage and repairs. The Ministry deemed the car unsuitable to drive and required the man to spend $4,700 on repairs and $300 on new inspection certificates. Three months later, he again attempted to register the car.

Due to the repairs and its fraudulent history, the car's value was reappraised at $7,000 – about half what the man paid for it (he had also paid provincial sales tax on the $14,000 purchase price). At the Ombudsman's request, the Ministry agreed to review the man's claim for the financial loss he experienced as a result of the Ministry's failure to include information on its UVIP about the vehicle's defects before he purchased it. The claim was still being reviewed at the time this report was written.

However, the Ministry acknowledged that its computer system did not have the capacity to generate a UVIP that would have advised the man of his car's suspension prior to purchase. As a result, it committed to upgrading the system to ensure information about the status of cars is made clear to consumers at the time of purchase.

Your Feedback

I applaud your continued vigilance, and that of your capable staff, in ensuring that the policies, programs and services of the Ontario government meet the needs and expectations of our province's citizens.

– PREMIER DALTON MCGUINTY, LETTER TO OMBUDSMAN, MAY 21, 2009

I congratulate you on your achievements to date. Congratulations on delivering "big value on a small budget"!

– HEATHER FORSTER SMITH, CHIEF JUSTICE, ONTARIO SUPERIOR COURT OF JUSTICE, LETTER TO OMBUDSMAN, JULY 2009

Your efforts have contributed to social justice, community affairs, public policy and legislation, and have benefited all Ontarians.

– ELIZABETH WITMER, MPP (PC – KITCHENER-WATERLOO), LETTER TO OMBUDSMAN, APRIL 8, 2009

As a former cabinet minister, I can tell you your little antennas go off when you start wondering if the Ombudsman is looking at anything within your ministry … But that's what makes sure, from the premier on down to the parliamentary assistants, that the ministers do their job. It gives the public confidence that the government is being held accountable.

– SPEAKER STEVE PETERS (L – ELGIN-MIDDLESEX-LONDON), ADDRESS TO "SHARPENING YOUR TEETH" PARTICIPANTS, OMBUDSMAN'S OFFICE, DECEMBER 1, 2009

If you really wanted a watchdog, a watchman or a watchwoman, the Ombudsman's office is the place to go, because every time that he, this officer, has dealt with an issue, he has dealt with it in a way that brings respect to the job, that opens up the books in a way that says to the minister, "Here are the problems." … [T]he Ombudsman has delivered incredibly good reports that make us all accountable.

– ROSARIO MARCHESE, MPP (NDP – TRINITY-SPADINA) *HANSARD*, SEPTEMBER 29, 2009

I congratulate you on being honoured by the Ontario Bar Association with its Tom Marshall award of excellence, the highest distinction given to lawyers who practice in the public sector. This award underlines your many years of innovative achievements in the public sector. The exceptional contribution you have made to Ontario as Ombudsman has helped millions of people. The reforms that you have sparked as well as the establishment of your Special Ombudsman Response Team have created a more responsible and transparent public service in the province.

– ALLAN ROCK, PRESIDENT AND VICE-CHANCELLOR, UNIVERSITY OF OTTAWA, LETTER TO OMBUDSMAN, APRIL 15, 2009

Your Feedback

I really appreciated the "something for everyone" aspect of your Annual Report. It really makes me feel like we are all in this together.

– SHARON WILTON, POSTED AT OMBUDSMAN.ON.CA, JUNE 23, 2009

He has proven without exception that he is the people's trusted independent watchdog. He and his staff have done more for the citizens of this province than anyone could have hoped for through their in-depth investigations of complaints about the government of Ontario and its organizations.

– ELLEN WATSON, LETTER TO THE EDITOR, *THE AURORAN*, MARCH 23, 2010

Marin's investigations, particularly those in the health field with which I am most familiar, have helped thousands of Ontarians and demonstrably improved the maze of Ministry of Health bureaucracy for patients. He spurred the province to increase its screening of newborns from just two tests to 29, saving 50 babies a year from severe disability and death… His latest work in convincing the government to extend the funding of the colon cancer drug Avastin was a classic example of what he does best: Persuading reluctant officials to do the right thing for the benefit of the sick and powerless.

– DR. ILIAS CAGIANNOS, LETTER TO THE EDITOR, *OTTAWA CITIZEN*, MARCH 15, 2010

As a cancer patient who is receiving biweekly Avastin treatment, I am most pleased with the change in OHIP policy… While we should applaud the Ontario government's quick action in revising its policy, we must thank … Ontario Ombudsman André Marin for his insightful investigation of the "vast injustice" in our health insurance systems and practices.

– ROBERT CHEN, LETTER TO THE EDITOR, *OTTAWA CITIZEN*, DECEMBER 3, 2009

I just wanted to thank you, the members of the ombudsman's team and the ombudsman, for your work re Avastin. It is a wonderful gift to the colon cancer patients of Ontario… Your persistence is very much appreciated.

– C.C., EMAIL TO OMBUDSMAN, DECEMBER 11, 2009

I would like you to know that I have followed many of your reports on government departments and procedures, each one of them has been documented in a very professional manner, and you have always been honest and direct in your investigations and reports. I have dealt with your office in the past and have been more than satisfied with the professional and kind help that your staff provided me.

– W.S., EMAIL TO OMBUDSMAN, MARCH 17, 2010

your feedback

Your Feedback

Thank you for making me believe there is someone that cares what happens to the taxpayer… Keep up your good work.

– T.G., EMAIL TO OMBUDSMAN

I am so thrilled that there is an extension of Avastin for cancer treatment… Kudos to the Ombudsman of Ontario for stepping in to help out cancer patients. Thank God you are there to help.

– COMPLAINANT

I am writing today to thank your office with help in obtaining assistance in dealing with the Family Responsibilities Office. I have been dealing with support arrears for over a year… I have now received two support payments... I would like to take this opportunity to express to you and your staff how much I appreciate the professionalism and dedication to this case, and the timely manner in which it was handled.

– COMPLAINANT

Thank you again for your help with my Ministry of Transportation grievance! I am so grateful. And I'm so heartened that there is someone like you around to help citizens having difficulty with the bureaucracy.

– COMPLAINANT

I would just like to thank you so much for all that you have done to help me (and the other students) resolve issues regarding the closure of my previous school… When the future looked so bleak and it seemed that no one cared, your compassion shone through.

– COMPLAINANT

You have such an amazing ability to listen and you have such a comforting way about you. Besides being a excellent investigator, you are an amazing human being.

– COMPLAINANT

Your Feedback
Comments via Twitter

@Ont_Ombudsman
Thank you for all of your hard work for the marginalized people of Ontario.

– MARGARET CAPES

@Ont_Ombudsman
Congrats for your efforts on Avastin. The families involved will never forget your compassion and leadership.

– FRED HALADAY

FF **@Ont_Ombudsman**
because the Ombudsman is informative, interesting and doing great work for the people of our fair province!

– MICHELLE LEWIS

Ok, special Follow Friday rec, kids: **@Ont_Ombudsman** André Marin, that rare breed: A public official who truly *gets* @Twitter

– MATTHEW ELLIOT

@Ont_Ombudsman – We think it's great that you tweet! More authoritative public figures should be as proactive w/technology as you! Great job.

– GREAT EXPECTATIONS

Before André Marin, was the Ombudsman of Ontario (reports, office, person) (**@ont_ombudsman**) ever so interesting?

– @MICHALHAY

your feedback

Your Feedback
In the Media

[The Ombudsman] has a track record of speaking for those who are least able to speak for themselves: Cancer patients, taxpayers who have been victimized by the assessment process, lottery players who'd been ripped off. The list is endless. He's shone a bright light in some dark places.

– CHRISTINA BLIZZARD, COLUMNIST, *TORONTO SUN*, MARCH 11, 2010

Ombudsman Ontario doesn't need a wait-times czar: The 1,300 outstanding cases carried over from last year represented less than 8% of the year's case flow; 50% of cases are closed in seven days and 76% in 30 days.

– *INSIDE QUEEN'S PARK*, JULY 15, 2009

It's the ombudsman's job to hold powerful, provincially regulated bureaucrats and institutions to account – something Marin does with flair.

– DON MACDONALD, COLUMNIST, *SUDBURY STAR*, AUGUST 28, 2009

We couldn't resist bestowing this award [NOW's Activist of the Year 2009] after watching Marin horrify, humiliate and humble dumb pols over the last few years, in the name of folks forgotten in the system… Watching the Marin show over the years has been a bit like eating comfort food – the world just feels a little safer.

– *NOW* MAGAZINE, FEBRUARY 25, 2010

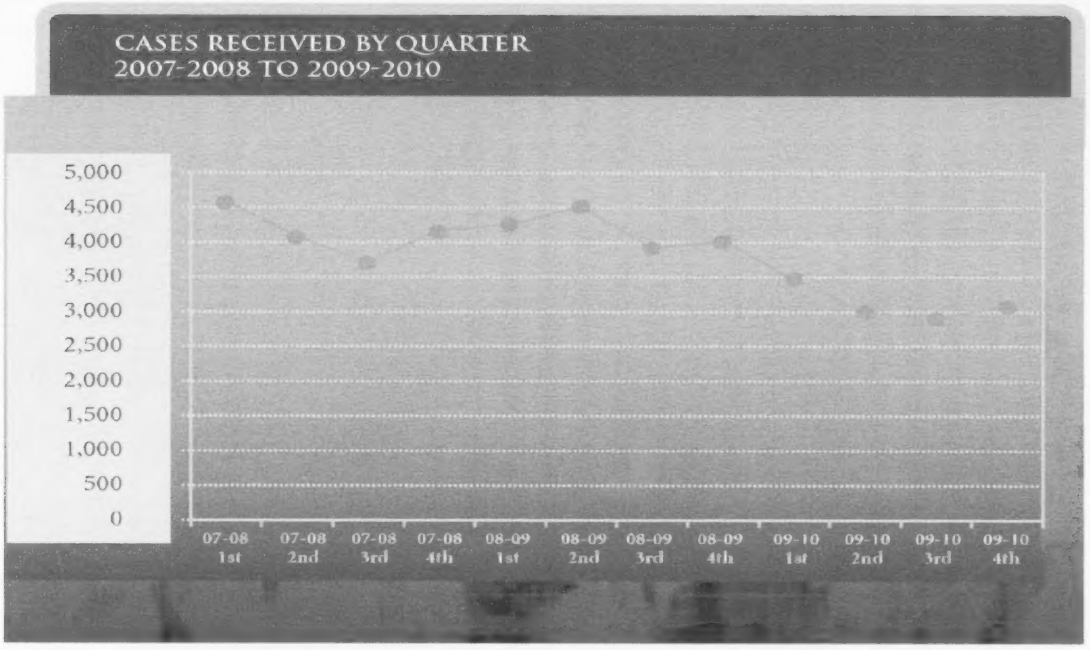
When he took the job in 2005, after a run as Canada's first military ombudsman, Marin found the Ontario ombudsman's office "a bit of a backwater." … He set out to reinvent it as a "dynamic investigative body." And no one around Queen's Park can deny his success. As he said, this genius for public relations put his office on the map.

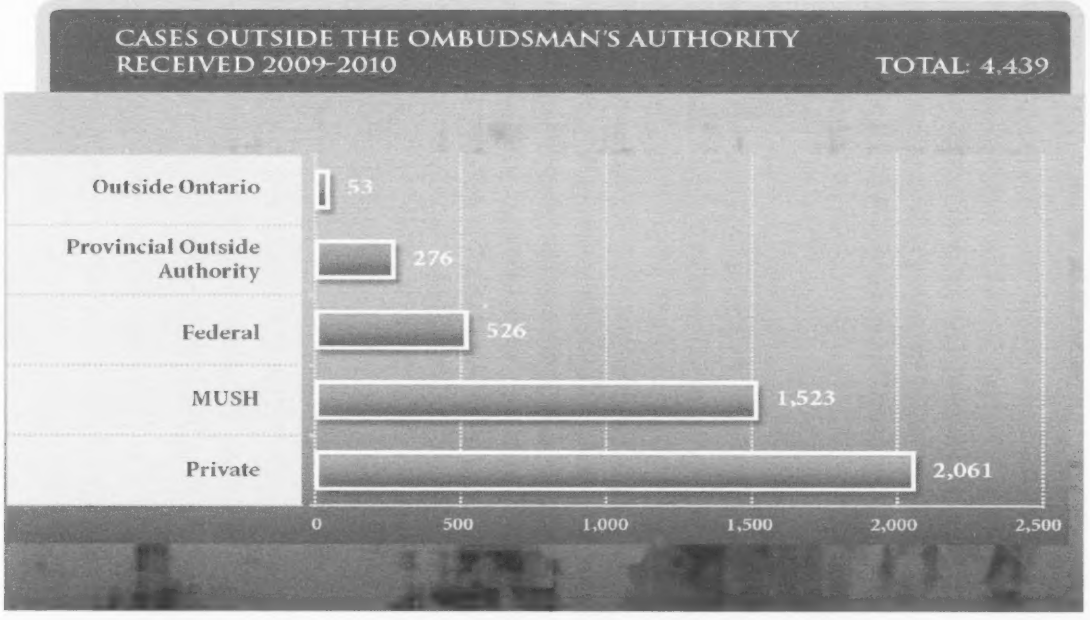
– JIM COYLE, COLUMNIST, *TORONTO STAR*, APRIL 21, 2010

Do you pay property taxes? Do you purchase lottery tickets? Are you a cancer patient? Have you been a victim of a crime? Are you the parent of a special needs child? Did you have a baby in the last five years? If so, your life or your rights have likely been improved due to Marin's efforts.

– ALAN SHANOFF, COLUMNIST, *TORONTO SUN*, APRIL 24, 2010

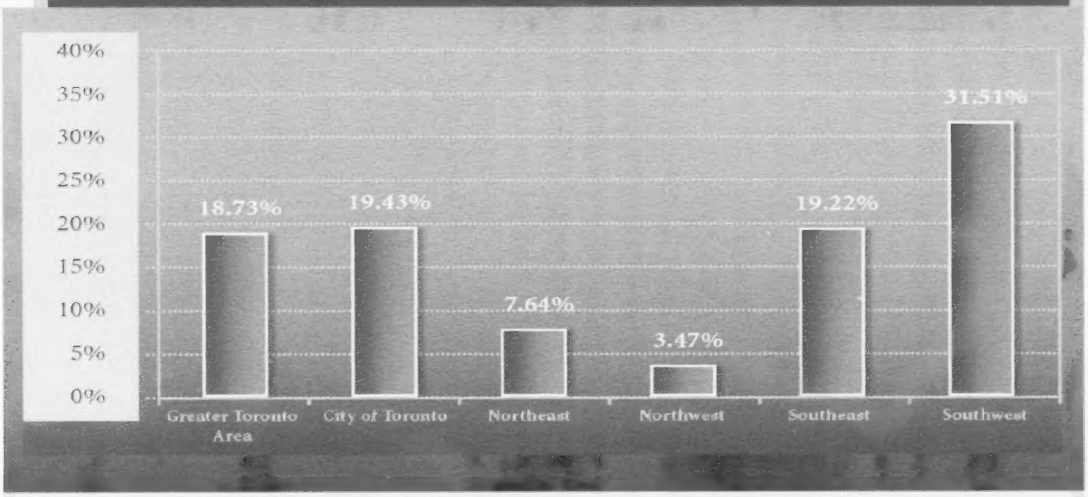
APPENDIX 1 · Complaint Statistics





APPENDIX 1 · Complaint Statistics

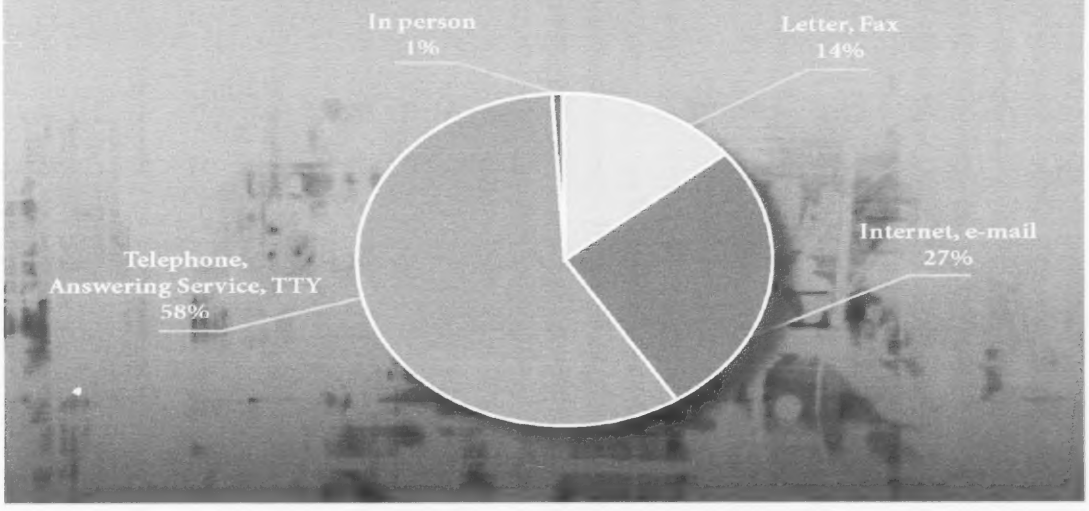
REGIONAL DISTRIBUTION OF COMPLAINANTS* 2009-2010



* *Excluding inmates of correctional facilities.*

Greater Toronto Area: Bounded by Oakville, Lake Simcoe and Oshawa, but excluding the City of Toronto
City of Toronto: Bounded by Etobicoke, Steeles Avenue and Scarborough
Northeast: Bounded by Ottawa, Penetanguishene and Marathon north to Hudson's Bay
Northwest: West of the Marathon/Hudson's Bay boundary
Southeast: Bounded by the GTA, Penetanguishene and Ottawa Southwest: Bounded by the GTA, Barrie and Penetanguishene

HOW CASES WERE RECEIVED 2009-2010



APPENDIX 1 · Complaint Statistics

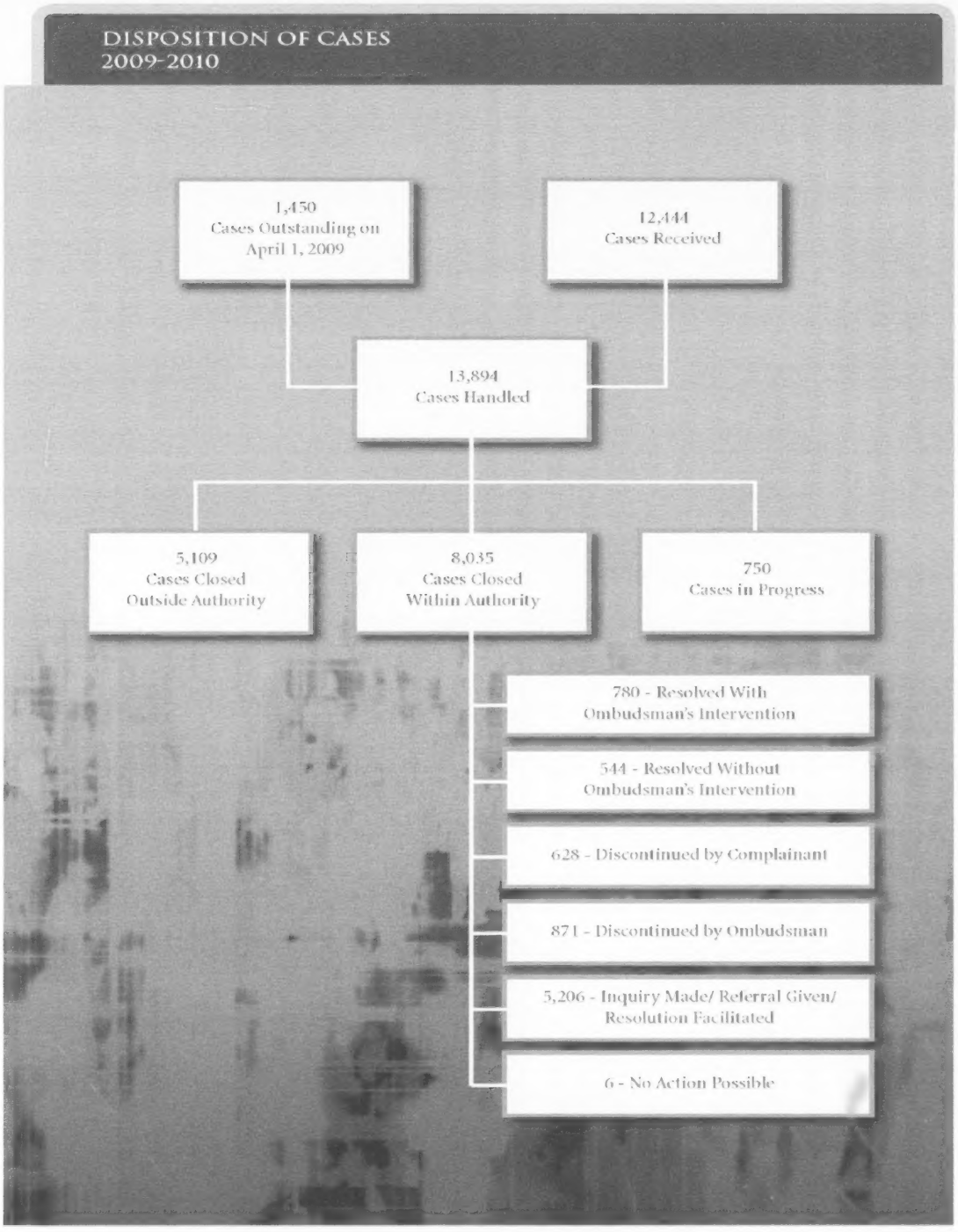
TOP 20 PROVINCIAL GOVERNMENT ORGANIZATIONS AND PROGRAMS COMPLAINED ABOUT IN 2009-2010

		Number of Cases	Percentage of All Cases Within Authority
1	FAMILY RESPONSIBILITY OFFICE	756	9.53%
2	ONTARIO DISABILITY SUPPORT PROGRAM	436	5.50%
3	WORKPLACE SAFETY AND INSURANCE BOARD	395	4.98%
4	CENTRAL NORTH CORRECTIONAL CENTRE	384	4.84%
5	CENTRAL EAST CORRECTIONAL CENTRE	324	4.08%
6	OTTAWA-CARLETON DETENTION CENTRE	234	2.95%
7	DRIVER LICENSING	234	2.95%
8	HYDRO ONE	227	2.86%
9	MAPLEHURST CORRECTIONAL COMPLEX	196	2.47%
10	TORONTO WEST DETENTION CENTRE	190	2.39%
11	MUNICIPAL PROPERTY ASSESSMENT CORPORATION	178	2.24%
12	DRUG PROGRAMS BRANCH	162	2.04%
13	VANIER CENTRE FOR WOMEN	144	1.81%
14	REGISTRAR GENERAL	122	1.54%
15	LEGAL AID ONTARIO	122	1.54%
16	TORONTO JAIL	121	1.53%
17	ONTARIO STUDENT ASSISTANT PROGRAM	120	1.51%
18	NIAGARA DETENTION CENTRE	114	1.44%
19	PUBLIC GUARDIAN AND TRUSTEE	111	1.40%
20	ELGIN-MIDDLESEX DETENTION CENTRE	111	1.40%

MOST COMMON TYPES OF CASES RECEIVED DURING 2009-2010

1	Decision wrong, unreasonable or unfair
2	Communication inadequate, improper or no communication
3	Delay
4	Access to, or denial of services; inadequate or poor service
5	Enforcement unfair or failure to enforce
6	Failure to adhere to policies, procedures or guidelines or to apply them consistently; unfair policy/ procedure
7	Omission or failure to act
8	Discrimination/ harassment
9	Failure to keep a proper record
10	Investigation improper or inadequate
11	Bias
12	Internal complaint process; lack of a process, unfair handling of complaint
13	Insufficient reasons or no reasons
14	Wrong or unreasonable interpretation of criteria, standards, policy, procedures guidelines, regulations, laws, information or evidence
15	Failure to provide sufficient or proper notice

APPENDIX 1 · Complaint Statistics



APPENDIX 1 · Complaint Statistics

CASES EXCLUDING CORRECTIONAL FACILITIES RECEIVED 2009-2010 BY PROVINCIAL RIDING*

Ajax-Pickering	49	Niagara West-Glanbrook	54
Algoma-Manitoulin	105	Nickel Belt	57
Ancaster-Dundas-Flamborough-Westdale	54	Nipissing	88
Barrie	99	Northumberland-Quinte West	42
Beaches-East York	75	Oak Ridges-Markham	54
Bramalea-Gore-Malton	56	Oakville	54
Brampton-Springdale	36	Oshawa	117
Brampton West	55	Ottawa Centre	71
Brant	44	Ottawa-Orleans	25
Bruce-Grey-Owen Sound	91	Ottawa South	50
Burlington	66	Ottawa-Vanier	64
Cambridge	79	Ottawa West-Nepean	88
Carleton-Mississippi Mills	32	Oxford	41
Chatham-Kent-Essex	55	Parkdale-High Park	78
Davenport	57	Parry Sound-Muskoka	73
Don Valley East	42	Perth-Wellington	39
Don Valley West	53	Peterborough	47
Dufferin-Caledon	59	Pickering-Scarborough East	44
Durham	42	Prince Edward-Hastings	79
Eglinton-Lawrence	65	Renfrew-Nipissing-Pembroke	52
Elgin-Middlesex-London	61	Richmond Hill	39
Essex	58	Sarnia-Lambton	68
Etobicoke Centre	48	Sault Ste. Marie	95
Etobicoke-Lakeshore	69	Scarborough-Agincourt	43
Etobicoke North	49	Scarborough Centre	41
Glengarry-Prescott-Russell	42	Scarborough-Guildwood	82
Guelph	63	Scarborough-Rouge River	30
Haldimand-Norfolk	46	Scarborough Southwest	52
Haliburton-Kawartha Lakes-Brock	52	Simcoe-Grey	57
Halton	67	Simcoe North	85
Hamilton Centre	94	St. Catharines	71
Hamilton East-Stoney Creek	79	St. Paul's	99
Hamilton Mountain	69	Stormont-Dundas-South Glengarry	49
Huron-Bruce	36	Sudbury	87
Kenora-Rainy River	75	Thornhill	48
Kingston and the Islands	52	Thunder Bay-Atikokan	62
Kitchener Centre	71	Thunder Bay-Superior North	74
Kitchener-Conestoga	42	Timiskaming-Cochrane	76
Kitchener-Waterloo	40	Timmins-James Bay	61
Lambton-Kent-Middlesex	39	Toronto Centre	115
Lanark-Frontenac-Lennox and Addington	76	Toronto-Danforth	81
Leeds-Grenville	63	Trinity-Spadina	77
London-Fanshawe	80	Vaughan	43
London North Centre	77	Welland	61
London West	87	Wellington-Halton Hills	38
Markham-Unionville	25	Whitby-Oshawa	62
Mississauga-Brampton South	41	Willowdale	55
Mississauga East-Cooksville	43	Windsor-Tecumseh	64
Mississauga-Erindale	51	Windsor West	69
Mississauga South	50	York Centre	58
Mississauga-Streetsville	32	York-Simcoe	49
Nepean-Carleton	53	York South-Weston	50
Newmarket-Aurora	50	York West	37
Niagara Falls	110		

** Where a valid postal code is available.*

APPENDIX 1 • Complaint Statistics

TOTAL CASES RECEIVED 2009-2010 FOR PROVINCIAL GOVERNMENT MINISTRIES AND SELECTED PROGRAMS*

MANAGEMENT BOARD OF CABINET		1
MINISTRY OF ABORIGINAL AFFAIRS		1
MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS		13
MINISTRY OF THE ATTORNEY GENERAL		524
ASSESSMENT REVIEW BOARD	22	
CHILDREN'S LAWYER	30	
CRIMINAL INJURIES COMPENSATION BOARD	50	
HUMAN RIGHTS TRIBUNAL OF ONTARIO	90	
LEGAL AID ONTARIO	122	
ONTARIO HUMAN RIGHTS COMMISSION	17	
ONTARIO MUNICIPAL BOARD	17	
PUBLIC GUARDIAN AND TRUSTEE	111	
MINISTRY OF CHILDREN AND YOUTH SERVICES		148
CHILD AND FAMILY SERVICES REVIEW BOARD	10	
SECURE CUSTODY FACILITIES FOR YOUTH	29	
SPECIAL NEEDS PROGRAMS - CHILDREN	75	
MINISTRY OF CITIZENSHIP AND IMMIGRATION		2
MINISTRY OF COMMUNITY AND SOCIAL SERVICES		1270
FAMILY RESPONSIBILITY OFFICE	756	
ONTARIO DISABILITY SUPPORT PROGRAM	436	
SOCIAL BENEFITS TRIBUNAL	35	
SPECIAL NEEDS PROGRAMS - ADULT	17	
MINISTRY OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES		2828
CORRECTIONAL FACILITIES	2706	
OFFICE OF THE CHIEF CORONER	21	
ONTARIO PROVINCIAL POLICE	36	
PROBATION AND PAROLE SERVICES	17	
MINISTRY OF CONSUMER SERVICES		23
MINISTRY OF CULTURE		5
MINISTRY OF ECONOMIC DEVELOPMENT AND TRADE		1
MINISTRY OF EDUCATION		37
MINISTRY OF ENERGY AND INFRASTRUCTURE		274
HYDRO ONE	227	
ONTARIO ENERGY BOARD	18	
MINISTRY OF THE ENVIRONMENT		45
MINISTRY OF FINANCE		331
FINANCIAL SERVICES COMMISSION	29	
MUNICIPAL PROPERTY ASSESSMENT CORPORATION	178	
ONTARIO LOTTERY AND GAMING CORPORATION	88	
ONTARIO SECURITIES COMMISSION	10	
MINISTRY OF GOVERNMENT SERVICES		215
ALCOHOL AND GAMING COMMISSION OF ONTARIO	12	
LICENCE APPEAL TRIBUNAL	11	
REGISTRAR GENERAL	122	
SERVICEONTARIO	33	

APPENDIX 1 · Complaint Statistics

TOTAL CASES RECEIVED 2009-2010 FOR PROVINCIAL GOVERNMENT MINISTRIES AND SELECTED PROGRAMS*

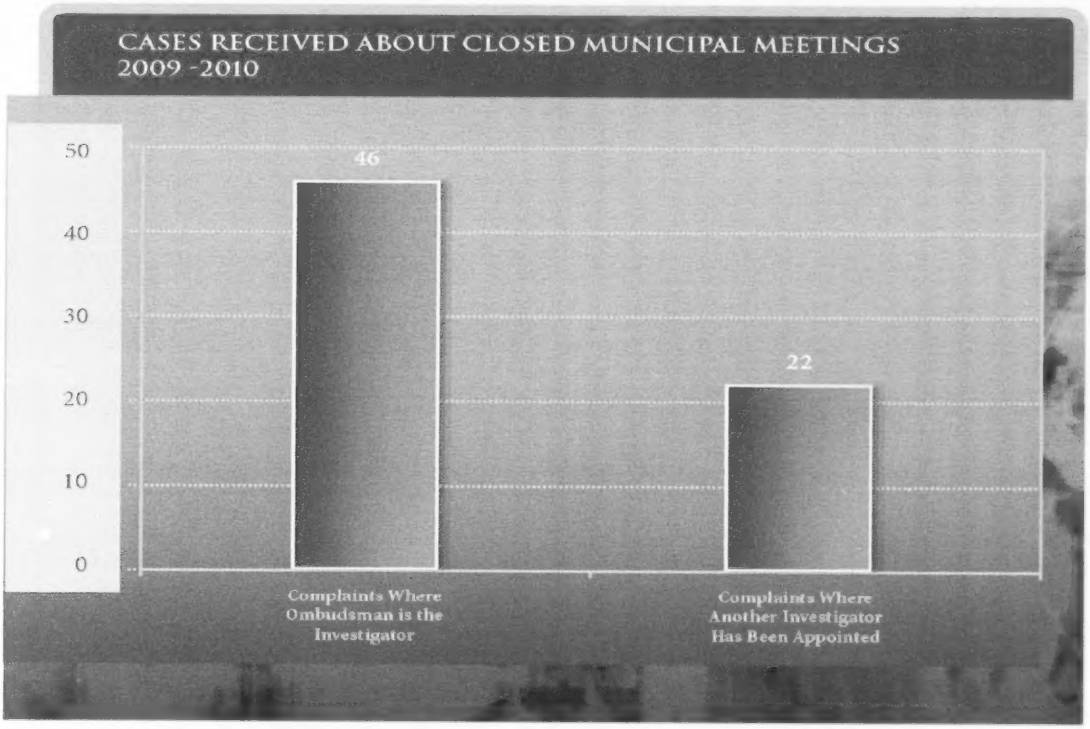
MINISTRY OF HEALTH AND LONG-TERM CARE		**564**
ASSISTIVE DEVICES / HOME OXYGEN PROGRAMS	11	
CAMBRIDGE MEMORIAL HOSPITAL	25	
COMMUNITY CARE ACCESS CENTRES	49	
DRUG PROGRAMS BRANCH	162	
HEALTH PROFESSIONS APPEAL AND REVIEW BOARD	23	
HEALTH SERVICES APPEAL AND REVIEW BOARD	16	
LOCAL HEALTH INTEGRATION NETWORKS	42	
LONG-TERM CARE BRANCH	37	
NORTHERN HEALTH TRAVEL GRANT	13	
ONTARIO HEALTH INSURANCE PLAN	88	
MINISTRY OF HEALTH PROMOTION		**4**
MINISTRY OF LABOUR		**638**
EMPLOYMENT PRACTICES BRANCH	76	
ONTARIO LABOUR RELATIONS BOARD	27	
WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL	104	
WORKPLACE SAFETY AND INSURANCE BOARD	395	
MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING		**113**
LANDLORD AND TENANT BOARD	83	
MINISTRY OF NATURAL RESOURCES		**48**
MINISTRY OF NORTHERN DEVELOPMENT, MINES AND FORESTRY		**6**
MINISTRY OF REVENUE		**38**
MINISTRY OF TOURISM		**6**
MINISTRY OF TRAINING, COLLEGES AND UNIVERSITIES		**423**
APPRENTICESHIPS / WORK TRAINING	23	
COLLEGES OF APPLIED ARTS AND TECHNOLOGY	94	
ONTARIO STUDENT ASSISTANCE PROGRAM	120	
MINISTRY OF TRANSPORTATION		**341**
DRIVER LICENSING	234	
GO TRANSIT	19	
VEHICLE LICENSING	27	
ONTARIO GOVERNMENT - OTHER**		**29**

* *Total figures are reported for each provincial government ministry including all agencies and programs falling within its portfolio.*

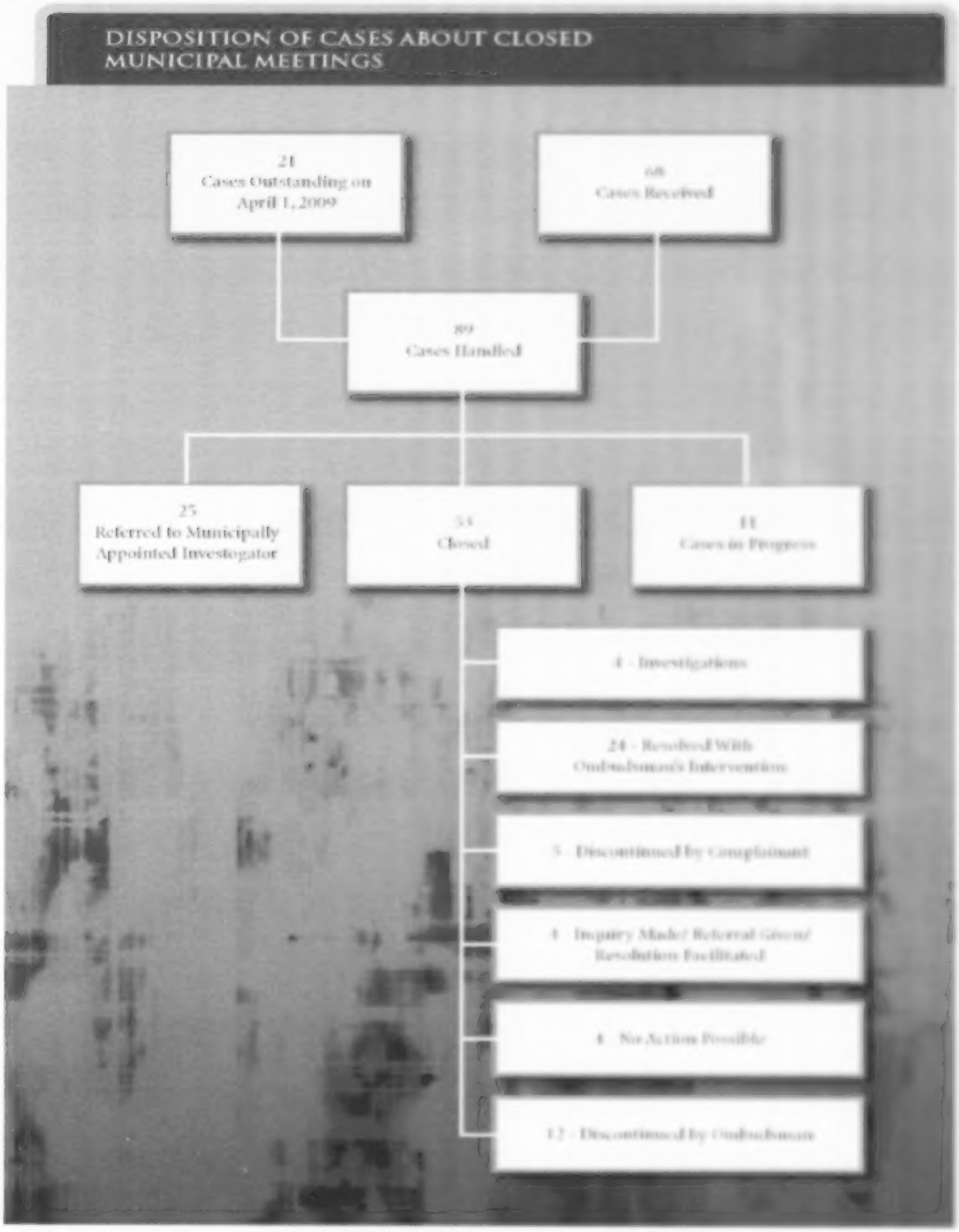
Each government agency or program receiving 10 or more cases is also included.

** *This includes cases about the Office of the Premier, Legislative Assembly and other officers of the Legislature.*

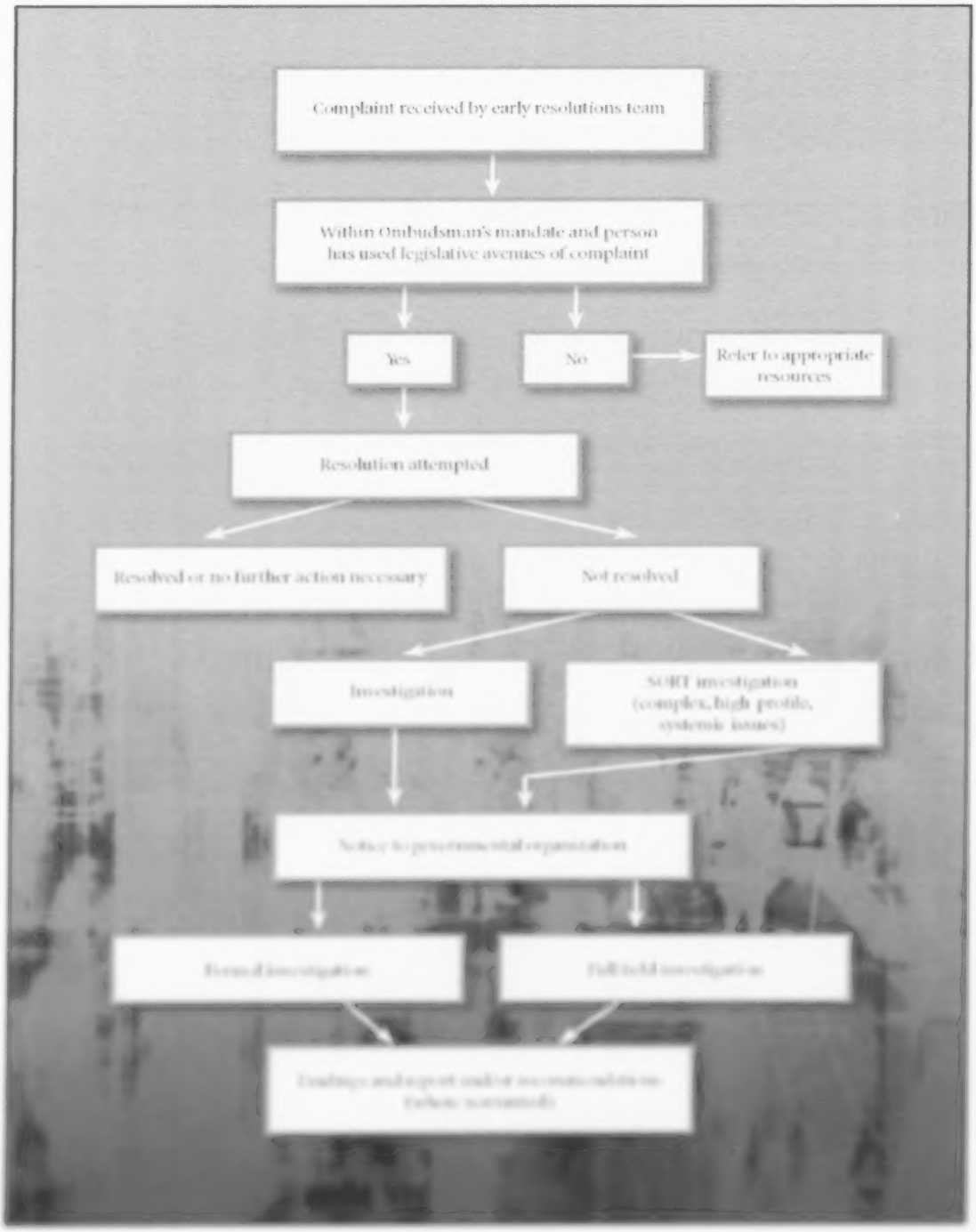
APPENDIX 1 · Complaint Statistics



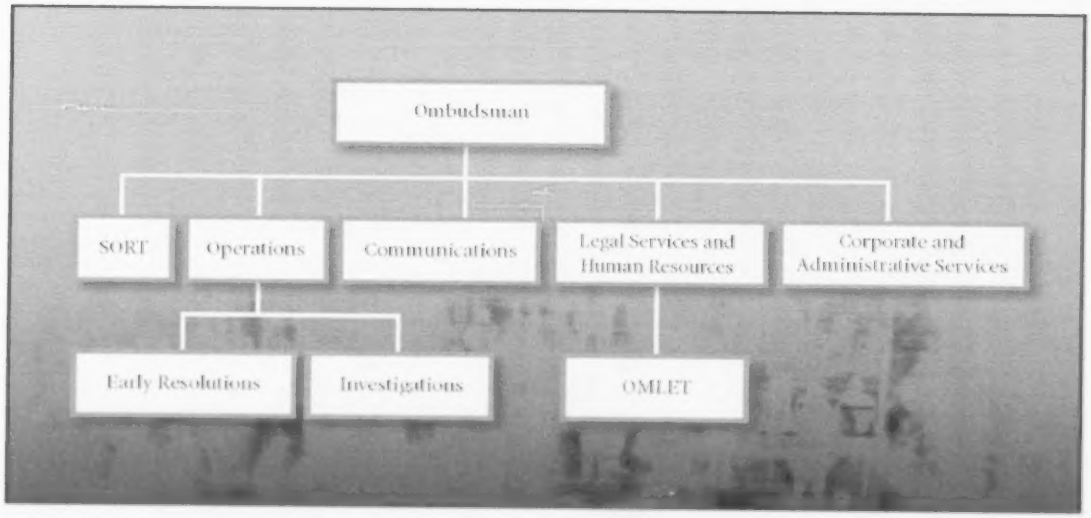
APPENDIX 1 • Complaint Statistics



APPENDIX 2 · How We Work


Complaint received by early resolutions team
Within Ombudsman's mandate and person has used legislative avenues of complaint
Yes
No
Refer to appropriate resources
Resolution attempted
Resolved or no further action necessary
Not resolved
Investigation
SORT investigation (complex, high profile, systemic issues)

APPENDIX 3 · About the Office



Special Ombudsman Response Team (SORT): SORT is tasked with conducting extensive field investigations into complex, systemic, high-profile cases. SORT works in collaboration with the Ombudsman's operations team and investigators are assigned to SORT on the basis of their specific abilities and areas of expertise.

Operations: The Operations team, led by the Deputy Ombudsman, includes an early resolutions team and an investigations team. The early resolutions team operates as the Office's front line, taking in complaints, assessing them and providing advice, guidance and referrals. Early resolution officers use a variety of conflict resolution techniques to resolve complaints that fall within the Ombudsman's jurisdiction. The investigations team is comprised of experienced investigators who conduct issue-driven, focused and timely investigations of both individual and systemic complaints.

Communications: In addition to publishing the Annual and SORT reports, as well as maintaining the office's website and social media presence and overseeing outreach activities, the communications team provides support to the Ombudsman in media interviews, press conferences, speeches, and public statements on the results of investigations.

Legal Services and Human Resources: This team, led by the Office's senior counsel, supports the Ombudsman and his staff, overseeing human resources, ensuring that the Office functions within its legislated mandate and providing expert advice in support of the resolution and investigation of complaints. Members of the team play a key role in the review and analysis of evidence during investigations and the preparation of reports and recommendations. In addition, the Open Meeting Law Enforcement Team (OMLET) reviews and investigates complaints about closed municipal meetings received pursuant to the *Municipal Act, 2001*. OMLET also engages in education and outreach with municipal councils and the public with respect to the open meeting requirements of the Act and best practices to ensure transparency at the municipal government level.

Corporate and Administrative Services: The Corporate and Administrative Services team provides support in the areas of finance, administration and information technology.

APPENDIX 4 · Financial Report

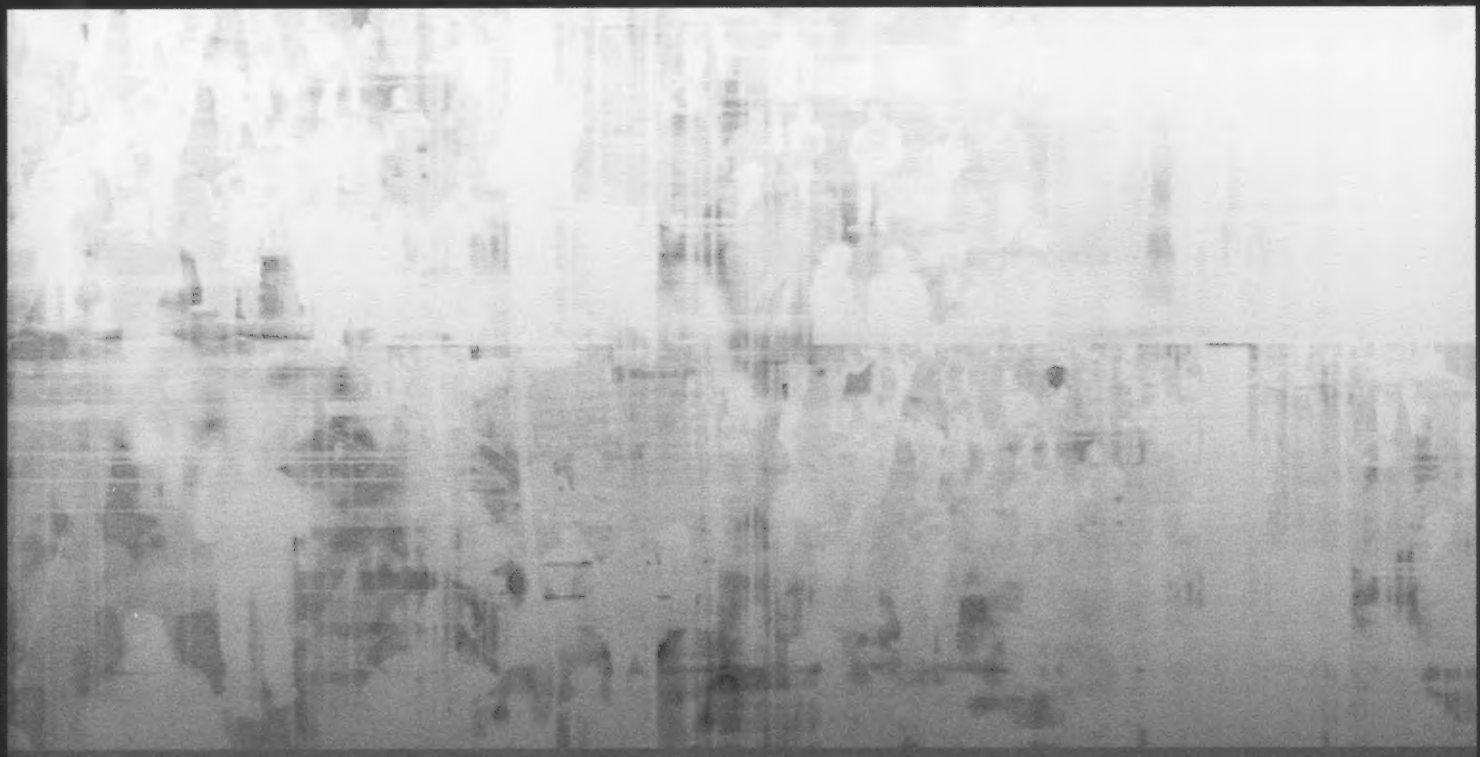
During the fiscal year 2009-2010, the total operating budget allocated for the Office was **$10.28 million**. Miscellaneous revenue returned to the government amounted to $12,000, resulting in net expenditures of $10.27 million. The largest categories of expenditures relate to salaries and benefits at $8 million, which accounts for 78% of the Office's annual operating expenditures.

SUMMARY OF EXPENDITURES

	(In thousands)
Salaries and wages	$6,405
Employee benefits	$1,606
Transportation and communications	$346
Services	$1,523
Supplies and equipment	$403
Annual Operating Expenses	**$10,283**
Less: Miscellaneous revenue	$12
Net Expenditures	**$10,271**

Ombudsman
ONTARIO

ONTARIO'S WATCHDOG



Ombudsman
ONTARIO

ONTARIO'S WATCHDOG

ANNUAL REPORT 2009-2010

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